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FEDERAL WITNESS SECURITY PROGRAM

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

Special Hearing

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FEDERAL WITNESS SECURITY PROGRAM

TUESDAY, JULY 6, 1982

U.S. SENATE,
SUBCOMMITTEE ON STATE, JUSTICE, COMMERCE,
THE JUDICIARY, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Jackson, Miss.

The subcommittee met at 10 a.m., Coliseum Ramada Inn, Jackson, Miss. Hon. Thad Cochran, presiding.

Present: Senator Cochran.

DEPARTMENT OF JUSTICE

U.S. MARSHALS SERVICE

WITNESS SECURITY PROGRAM

NONDEPARTMENTAL WITNESSES

POSITIONS AND BUDGET REQUEST

Senator COCHRAN. Please come to order. I want to welcome all of you here. We appreciate the attendance of those who will testify and other interested witnesses who are making information available to the subcommittee today to assist us in our efforts to examine the Federal witness security program.

This hearing is being convened under the authority of the Subcommittee on State, Justice, Commerce, and the Judiciary of the Appropriations Committee of the U.S. Senate, of which I am a member. Later this year, in connection with the work of our subcommittee, we will be reviewing and acting on a budget request submitted by the Department of Justice and the U.S. Marshals Service for the witness security program. For fiscal year 1983 this request is for 258 positions and $17,518,000, of which approximately $10,000,000 will be spent on federally protected witnesses.

Created by Congress under the Organized Crime Act of 1970, the Federal witness security program has provided protection to approximately 3,900 Government witnesses who have testified against organized crime figures and other criminal defendants. The program has provided a number of witnesses and their family members with new identities, location to new areas, documentation such as birth certificates, social security cards, driver's licenses, and financial and employment assistance.

COMPONENT IN FIGHT AGAINST ORGANIZED CRIME

The testimony of the witnesses participating in the Federal witness security program has resulted in many convictions, demonstrating that the program is an important component in the fight against organized criminal activities, which range from illicit drug trafficking and terrorism to white collar crime.

My concern, however, about the Federal witness security program stems from some tragic incidents occurring here in Mississippi. Specifically, in Jackson last fall a federally protected witness, Marion Albert Pruett, kidnaped and murdered a savings and loan employee, Peggy Lowe, during an armed robbery. At least two other crimes involving protected witnesses have been committed in this State: A murder in Pascagoula and a robbery in Natchez. There are reports of crimes in other States and incidents of fraud and civil litigation involving Federal protected witnesses who are sheltered by the Government in the program. These incidents may not be isolated in view of the fact that 95 percent of the witnesses in the program have prior criminal records.

These incidents, I believe, raise serious questions about the program which must be answered:

What are the criteria for selection and admission of witnesses to the program?

What consideration is given to the potential threat posed to local communities and private citizens by relocated witnesses?

Who is accountable for the witnesses once they are relocated?

What are the effects of the program on innocent citizens and third parties?

Are we spending Federal dollars to protect witnesses while at the same time shielding them from the legitimate claims of creditors and others?

Therefore, the subcommittee will examine specifically the facts of the incidents occurring in Mississippi and the policies and practices of the Criminal Division and the U.S. Marshals Service relative to the program.

WITNESSES

Appearing before the subcommittee today to address these issues are: Lt. A. G. Willis of the Pascagoula Police Department; Capt. Jack Hude of the Natchez Police Department; and Director Walter Tucker of the Criminal Investigations Department of the Mississippi Highway Patrol.

Following their testimony, we will hear from: Associate Director Gerald Shur of the Office of Enforcement Operations, Criminal Division, Department of Justice in Washington; and Assistant Director Howard Safir, Operations, U.S. Marshals Service in Washington.

At this time I would like to request our first three witnesses to come to the hearing table. Mr. Willis, Mr. Hude, and Mr. Tucker are local law enforcement officials who investigated the crimes in Mississippi involving persons in the Witness Protection Program.

REPORT OF INVESTIGATION

We have a statement which has been filed with the committee by Director Walter Tucker, of the Criminal Investigations Bureau of the Mississippi Department of Public Safety. We will make the complete report a part of our record at this point, and any other written statements that we have will be included in the record in full.

[The report follows:]

This is a report of the investigation of the armed robbery of Unifirst Federal Savings and Loan, Jackson, Mississippi and the kidnapping and murder of Unifirst employee, PEGGY LOWE. MARION ALBERT PRUETT, who was a protected witness under the U.S. Marshals Witness Security Program, has been convicted of the crimes and sentenced to death on the homicide charge and to life in prison on the armed robbery and kidnapping charge.

The Unifirst Federal Savings and Loan was robbed by a lone gunman on September 17, 1981. On 14 October 1981, Jackson FBI received information from Albuquerque, New Mexico Police Department that a white male MARION ALBERT PRUETT of an unknown address in Albuquerque, New Mexico, was responsible for the Armed Robbery of UNIFIRST SAVINGS AND LOAN ASSOCIATION in Jackson, Mississippi on 17 September 1981, and the abduction and kidnapping of teller, OPAL LeDAIRE LOWE, AKA PEGGY LOWE. This information was obtained from a confidential informant, of Albuquerque, New Mexico, a friend of the subject MARION ALBERT PRUETT, AKA BILLY DEAN WAGNER, AKA CHARLES SONNY PEARSON, AKA LEE ESMOND, AKA LEROY ESMOND. Subject is a white male, date of birth 4 October 1949.

Informant last saw subject in Albuqerque, New Mexico on 13 October 1981. At that time, subject was believed to be driving a yellow Toyota Celica, bearing California license plates, believed to be 1CIE331, 1982 issued. This vehicle was reported stolen in Gretna, Louisiana on 16 September 1981. Further investigation through the California Motor Vehicle Registration reference check on California license showed tag displayed on a 1981 Ford Fairlane, orange in color. Check also revealed this vehicle was stolen from PAIGE RENT-A-CAR in Los Angeles, California on 13 August 1981.

Informant was told by PRUETT that he had robbed seven (7) banks and killed nine (9) persons across the United States. Subject told informant of the murder of his wife, PAMELA SUE BARKER, in April 1981, near Albuquerque, New Mexico, when subject and friend, BILL SHERMAN, beat subject's wife in the head with a hammer, strangled victim with a belt, and then carried the body into the desert near Albuquerque, where gasoline was poured over the body and burned. Subject PRUETT also told informant of a double murder in New Orleans, Louisiana where he had killed a black male outside a bar, and kidnapped the black male's white girlfriend where he stated he carried her to a local motel and later killed and dumped the body in a wooded area outside New Orleans. (Law Enforcement authorities in and around New Orleans could find no record of any such described homicides.)

PRUETT then told informant of a bank robbery in Jackson, Mississippi and stated that he had kidnapped a bank teller, and later shot and killed the teller dumping the teller's body in a wooded area outside Jackson. PRUETT stated that upon leaving Jackson, the kidnapped victim started fighting him and he, in turn, shot the victim, causing victim to bleed to death. PRUETT told informant of robbery where a convenience store clerk was kidnapped from Fort Smith, Arkansas on 12 October 1981. He killed the clerk and dumped her body in a wooded area outside Fort Smith, Arkansas. PRUETT is presently in custody in Arkansas awaiting trial in that case.

According to Jackson FBI and Columbus, Ohio FBI, identification belonging to LEE ESMOND (MARION ALBERT PRUETT) was found near the body of the victim of the convenience store robbery and murder in Fort Smith, Arkansas which occurred on 12 October 1981. This identification contained telephone numbers which have been traced to various perons in Columbus, Ohio and Albuquerque, New Mexico. Through further investigation, informant showed that PRUETT had stayed at the HOLIDAY INN in Columbus, Ohio under the name of LEE ESMOND during 26 September 1981 through 1 October 1981.

Information was received that PRUETT was previously arrested for a Bank Robbery in Charlotte, North Carolina in 1976 and while serving time in a federal penitentiary, witnessed a murder. PRUETT testified in Federal Court reference this murder and was later released from the federal penitentiary and placed under the United

States Marshal's Federal Witness Protection Program. Upon his release, PRUETT returned to North Carolina, and was later relocated with his common law wife, PAMELA SUE BARKER, AKA MICHELL LILA PEARSON, in Albuquerque, New Mexico, and provided with false idenfication. PRUETT was dismissed from the Federal Witness Protection Program on 21 April 1981.

On 15 October 1981, FBI Crime Laboratory Identification Division matched the fingerprints of suspect PRUETT to fingerprints obtained in the bank robberies in Seattle, Washington; Tallahassee, Florida, Jackson, Mississippi and Bridgeville, Pennsylvania. Federal Bank Robbery and Kidnapping charges were filed against PRUETT along with other various state and local charges.

On 15 October 1981, PRUETT'S vehicle, (stolen yellow 1977 Toyota Celica) was located abandoned at a truck stop in Albuquerque, New Mexico. Crime scene investigators traveled to the scene to process the vehicle which contained blood stains.

On 16 October 1981, additional information was obtained stating that PRUETT had borrowed a vehicle from a friend, described as a brown 1969 Cadillac El Dorado bearing unknown New Mexico plates.

Also on 16 October 1981, information was provided by Denver, Colorado FBI Agents concerning the armed robberies of two (2) Seven-Eleven Convenience Stores in Fort Collins, Colorado and Loveland, Colorado. This information indicated that a Seven-Eleven Store in Fort Collins, Colorado was robbed at approximately 0300 hours, 16 October 1981, and store clerk JAMES BALDERSON, 24 years of age, was killed.

Subsequently, a Seven-Eleven Store, located approximately fifteen (15) miles from Fort Collins, Colorado, in Loveland, Colorado was robbed at 0500 hours, and the store clerk, ANTHONY TAITT, 21 years of age, was also murdered. PRUETT was a subject in these crimes also. (PRUETT has been convicted of these crimes and sentenced to two life sentences.)

On 16 October 1981, the license number of the brown Cadillac El Dorado being driven by PRUETT was obtained by Jackson FBI and entered on NCIC. Subsequently, PRUETT was arrested by Texas Highway Officer ROY KECK near Stratford, Texas on a routine traffic stop at approximately 2200 hours. PRUETT was arrested without incident and a search was conducted of the vehicle, which disclosed a .38 caliber pistol under the seat of the vehicle. PRUETT was incarcerated in Stratford (Sherman County) Texas and was transported to Amarillo, Texas on Monday, 19 October 1981, for arraignment in Federal Court at that location, where PRUETT was then extradited to Jackson, Mississippi. On 27 October 1981, PRUETT led officers to the body of PEGGY LOWE which was found in a wooded area near Livingston, Alabama.

PRUETT was later tried and convicted by the State of Capital Murder and sentenced to die in the Mississippi Gas Chamber. He was later tried in Federal Court on Armed Robbery and Kidnapping and sentenced to life in prison. PRUETT was transported to Colorado and tried in the murders of two convenience store operators and given two (2) life sentences. He is now in Fort Smith, Arkansas awaiting trial for the murder of a convenience store operator.

INFORMATION FOR THIS REPORT WAS OBTAINED FROM EVIDENCE DEVELOPED BY THE FBI, MISSISSIPPI HIGHWAY PATROL/CRIMINAL INVESTIGATION BUREAU AND THE JACKSON POLICE DEPARTMENT/ DETECTIVE BUREAU. MANY MANHOURS WERE EXPENDED ON THIS CASE BY THESE AND OTHER AGENCIES. THIS REPORT IS A SUMMARY OF THE FACTS OF THIS CASE AS DETERMINED BY THIS INVESTIGATION. THIS REPORT WAS PREPARED BY THE MISSISSIPPI HIGHWAY PATROL/CRIMINAL INVESTIGATION BUREAU.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20537

692 J 3

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Consol Rec Sec Pr Dept Raleigh NC	Marion Pruitt #P7655-519-11049 36	7-10-67	larceny	6 mos
PD Atlanta Ga	Marion Albert Pruett #288464	8-13-71	bank rob	
USM Asheville NC	Marion Albert Pruett #4333-2-71-184	8-24-71	Bank Robbery	sent 15 yrs Custody of Atty Gen
Medical Center For Fed Prs Springfield Mo	Marion Albert Pruett #19871-175	10-25-71	Bank robbery Title 18 Sec 4244	
Medical Center for Fed Prs Springfield Mo	Marion Albert Pruett #19871-175	2-5-72	Bank Robbery	15 years 6-8-72 transfer to FR:FR: Lee 11-15-72 PAR
Fed Reg Petersburg Va	Marion Albert Pruett #19871-175-B	7-20-72	fr Metro Corr Ctr San Diego CA bank rob	15yrs(reg adult)
Fed Yth Ctr Ashland Ky	Marion Albert Pruett 19871-175	12-7-72 tr/f/LEE Petersburg Va	bank rob	

Notations indicated by * are NOT based on fingerprints in FBI files but are listed only as investigative leads as being possibly identical with subject of this record.

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Med Ctr for Fed Pr Springfield Mo	Marion Albert Pruett 19871-175	7-12-73 frm AK	bank rob	15 yrs
Fed Yth Center Ashland Ky	Marion Albert Pruett 19871 175	11-6-73	Bank Robbery	11-6-73 Rec'd Ash Tr f SPG
Med Center For Fed Pr Springfield MO	Marion Albert Pruett 19871 175	3-24-74	bank robbery	15 yrs
Fed Yth Ctr Ashland KY	Marion Albert Pruett 19871-175	10-20-74 Fr SPG	Bank Robbery	
FBI Cincinnati OH	Marion Albert Pruett 91-11249	11-13-75	Armed Bank Robbery	15 yrs custody US Atty Gen
Fed Corr Inst Milan MI	Marion Albert Pruitt 19871-175 F100449	4-6-76	Bank Robbery Bank Robbery	19 yrs 2 mos 14 das Agg Began 1-19-72 Full term 10-24-90
US Pen Terre Haute IN	Marion A Pruitt 19871-175 F10-04-49	5-28-76 Rec'd THA fr Marion	Armed Bank Robbery & Bank Robbery	19 yrs 2 mos & 14 das
USM Detroit MI	Marion Albert Preutt 23025	6-25-76	Escape from Federal Institution	4 yrs Custody US Attorney General rec 12-3-76

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Med Ctr for Fed Pr Springfield MO	Marion Albert Pruett 19871-175 FI0044-9	1-13-77	Bank Robbery Armed Bank Robbery Attempted escape	23 yrs 2 mos 14 das
USP Terre Haute IN	Marion Albert Pruitt 19871-175 FI00449	4-5-77 In trf frm SPG	bank robb. armed bank robb attempted escape	23 yrs 02 mos 14 das
USM Amarillo TX	Marion Albert Pruett 11969-077	10-18-81	Bank robbery (SD Miss)	
USM Jackson MS	Marion Albert Pruett 11969 077	10-26-81	Bank Robbery	
PD Jackson MS	Marion Albert Pruett 67655	10-27-81	Capital Murder, Kidnapping	
SO Jackson MS STATE BUREAU	Marion Albert Pruett 81 727	11-2-81	Capital Murder, Kidnapping and armed Bank Robbery	

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
WASHINGTON, D. C. 20537

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
	FLASH: If arrested prior to 10-24-94 Notify Bureau of Prisons Central Office 320 First Street Washington, D. C. 20534 inf rec 11-23-79 WANTED: Marion A. Pruitt for Homicide wilful kill Gun Case #101581 date warr/esc 10/15/81 Notify Fort Smith PD; Fort Smith, AR inf rec 10/16/81 CAUTION: ARMED AND DANGEROUS CANCELLED WANTED BY FBI: Marion Albert Pruett, aka, Billy Dean Wagner, Charles Sonny Pearson BANK ROBBERY Notify FBI Seattle O.O. #91-6137 inf rec 10/16/81 CAUTION: ARMED AND DANGEROUS Aliases: Marion Albert Pruell, Marion A. Pruett CANCELLED CC-Bureau of Prisons Central Office 320 First Street Washington, DC 20534			

STATEMENTS OF:

WALTER TUCKER, DIRECTOR, CRIMINAL INVESTIGATIONS, DEPARTMENT OF MISSISSIPPI HIGHWAY PATROL

JACK HUDE, CAPTAIN, NATCHEZ POLICE DEPARTMENT

A. G. WILLIS, LIEUTENANT, PASCAGOULA POLICE DEPARTMENT

CRIMES INVOLVING PERSONS IN WITNESS PROTECTION PROGRAM

Mr. COCHRAN. I would like to begin with Mr. Tucker and ask you to give us a brief summary of your statement. We'll then hear from the other witnesses who can describe the incidents with which they are familiar.

Mr. Tucker, you may proceed.

Mr. TUCKER. Thank you, Senator. Information for this report was obtained from evidence developed by the Federal Bureau of Investigation, Mississippi Highway Patrol Criminal Investigation Bureau, and the Jackson Police Department Detective Bureau. Many manhours were expended on this case by these and other agencies. This report is a summary of the facts of this case as determined by this investigation. This report was prepared by the Mississippi Highway Patrol Criminal Investigation Bureau.

CASE OF MARION ALBERT PRUETT

The Unifirst Federal Savings & Loan was robbed by a lone gunman on September 17, 1981. On October 14, 1981, Jackson Federal Bureau of Investigation received information from Albuquerque, N. Mex. police department that a white male, Marion Albert Pruett, of an unknown address in Albuquerque, N. Mex., was responsible for the armed robbery of a Unifirst Savings & Loan Association in Jackson, Miss., on September 17, 1981, and the abduction and kidnaping of Opal LeDaire Lowe, also known as Peggy Lowe. This information was obtained from a confidential informant of Albuquerque, N. Mex., a friend of the subject, Marion Albert Pruett, also known as Billy Dean Wagner, also known as Charles Sonny Pearson, also known as Lee Esmond, also known as Leroy Esmond. The subject is a white male, date of birth, October 4, 1949.

Informant last saw subject in Albuquerque, N. Mex., on October 13, 1981. At that time, Pruett was believed to be driving a yellow Toyota Celica, bearing California license plates believed to be 1CIE331, 1982 issued. This vehicle was reported stolen in Gretna, La., on September 1981. Early investigation through the California Motor Vehicle Registration reference check on the California license showed tag displayed on a 1981 Ford Fairlane, orange in color. The check also revealed this vehicle was stolen from Paige Rent-A-Car in Los Angeles, Calif., on August 13, 1981.

ROBBERS, KIDNAPINGS, AND KILLINGS

Informant was told by Pruett that he had robbed seven banks and killed nine persons across the United States. Subject told informant of the murder of his wife, Pamela Sue Barker, in April 1981, near Albuquerque, N. Mex., when subject and friend, Bill Sherman, beat subject's wife in the head with a hammer, strangled victim with a belt, and then carried the body into the desert near

Albuquerque, where gasoline was poured over the body and it was burned. Subject Pruett also told informant of a double murder in New Orleans, La., where he killed a black male outside a bar and kidnaped the black male's white girlfriend where he stated he carried her to a local motel and later killed and dumped the body in a wooded area outside New Orleans. (Law enforcement authorities in and around new Orleans could find no record of any such described homicides.)

Pruett then told informant of a bank robbery in Jackson, Miss., and stated that he had kidnaped a bank teller and later shot and killed the teller dumping the teller's body in a wooded area outside of Jackson. Pruett stated that upon leaving Jackson, the kidnaped victim started fighting him and he, in turn, shot the victim, causing the victim to bleed to death. Pruett told informant of a robbery where a convenience store clerk was kidnaped in Fort Smith, Ark., on October 12, 1981. He stated he killed the clerk and dumped her body in a wooded area outside of Fort Smith, Ark. Pruett is presently in custody in Arkansas awaiting trial in that case.

According to Jackson, Federal Bureau of Investigation and Columbus, Ohio Federal Bureau of Investigation, identification belonging to Lee Esmond, also known as Marion Albert Pruett, was found near the body of the victim of the convenience store robbery and murder in Fort Smith, which occurred on October 12, 1981. This identification contained telephone numbers which have been traced to various persons in Columbus, Ohio, and Albuquerque, N. Mex. Through investigation, informant showed that Pruett had stayed at the Holiday Inn in Columbus, Ohio, under the name of Lee Esmond during September 16, 1981 through October 1, 1981.

FEDERAL WITNESS PROTECTION PROGRAM

Information was received that Pruett was previously arrested for a bank robbery in Charlotte, N. C., in 1976 and, while serving time in a Federal penitentiary, he witnessed a murder. Pruett testified in Federal Court reference this murder, was later released from the Federal penitentiary and placed under the U.S. Marshals Federal witness protection program. Upon his release, Pruett returned to North Carolina and was relocated with his common law wife, Pamela Sue Barker, also known as Michell Lila Pearson, in Albuquerque, N. Mex., and provided with false identification. Pruett was dismissed from the Federal witness protection program on April 21, 1981.

ROBBERY AND KIDNAPING CHARGES

On Ocrober 15, 1981, Federal Bureau of Investigation Crime Laboratory Identification Division matched the fingerprints of suspect Pruett to fingerprints obtained in the bank robberies in Seattle, Washington; Tallahassee, Fla; Jackson, Miss., and Bridgeville, Penna. Federal bank robbery and kidnaping charges were filed against Pruett along with other various State and local charges.

On October 15, 1981, Pruett's vehicle, the stolen yellow Toyota Celica, was located abandoned at a truck stop in Albuquerque, N. Mex. Crime scene investigators traveled to the scene to process the vehicle which contained blood samples.

On October 16, 1981, additional information was obtained stating that Pruett had borrowed a vehicle from a friend, described as a brown 1969 Cadillac El Dorado bearing unknown New Mexico plates.

Also on October 16, 1981, information was provided by Denver, Colo., Federal Bureau of Investigation agents concerning the armed robberies of two Seven-Eleven convenience stores in Fort Collins, Colo., and Loveland, Colo. This information indicated that a Seven-Eleven store in Fort Collins, Colo., was robbed at approximately 0300 hours, October 16, 1981, and store clerk, James Balderson, 24 years of age, was killed.

Subsequently, a Seven-Eleven store located approximately 15 miles from Fort Collins, Colo., in Loveland, Colo., was robbed at 0500 hours, and the store clerk, Anthony Taitt, 21 years of age, was also murdered. Pruett was a suspect in these crimes also. Pruett has been convicted of these crimes and sentenced to two life sentences.

ARREST AND INCARCERATION

On October 16, 1981, the license number of the brown Cadillac El Dorado being driven by Pruett was obtained by Jackson Federal Bureau of Investigation and entered on the National Crime Information Center records. Subsequently, Pruett was arrested by Texas Highway Patrol Officer Roy Keck near Stratford, Tex., on a routine traffic stop at approximately 2200 hours. Pruett was arrested without incident and a search was conducted of the vehicle which disclosed a .38-caliber pistol under the seat of the vehicle. Pruett was incarcerated in Stratford—Sherman County—Tex., and was transported to Amarillo, Tex., on Monday, October 19, 1981, for arraignment in Federal court at that location where Pruett was then extradited to Jackson, Miss. On October 27, 1981, Pruett led officers to the body of Peggy Lowe which was found in a wooded area near Livingston, Ala.

CONVICTION AND SENTENCE

Pruett was later tried and convicted by the State of capital murder and sentenced to die in the Mississippi gas chamber. He was later tried in Federal court on armed robbery and kidnaping and sentenced to life in prison. Pruett was transported to Colorado and tried in the murders of the two convenience store operators and given two life sentences. He is now in Fort Smith, Ark., awaiting trial for the murder of a convenience store operator there.

STATEMENT OF LT. A. G. WILLIS, PASCAGOULA POLICE DEPARTMENT

Senator COCHRAN. Thank you very much, Mr. Tucker. Before going into any questions about your experience with the U.S. Marshals Service and the Federal witness protection program, we'll hear from Lt. A. G. Willis of the Pascagoula Police Department. I hope you'll be able to tell us, Lieutenant Willis, about the incident that occurred in May of 1979 in Pascagoula that involved Earl Leroy Cassel. Give us any observations that you have about the in-

cident and briefly tell us what you know about his relationship to the witness protection program.

CASE OF EARL LEROY CASSEL

Lieutenant WILLIS. On May 24, 1979, at 9:06 p.m., we were notified that the attendant at the Rebel Package Store in Pascagoula had been found in a back room and appeared to be dead. I arrived on the scene, and the man was laying face down. The entire back room area floor was covered with blood. Some of the blood had coagulated. It was measured to be a little over a half-inch thick, which I had to dig through to retrieve the projectile. The autopsy report proved the man had been shot 11 times. He had been shot with a .25 automatic and also a .22. He was shot two times in the forehead, two times in the neck, once in the chin, once in the upper lip, three times in the left temple, two times in the right temple for a total number of entry wounds of 11. The victim, through the investigation, was known to carry a .22 pistol in his left front pocket; and this is the second weapon that Earl Leroy Cassel, given identity under the witness program—his real identity as such—excuse me, a correction on that. The witness protection identity was Earl Leroy McCabe. His true identity was Cassel. I found out later through extensive investigation that his true identity, as I said, was Earl Leroy Cassel. He was given a protected identity as Earl Leroy McCabe. He was assigned to the government witness protection program June 27, 1977, assigned protection number WC2154 and placed with the Marshal's Office in Milwaukee on June 28, 1977, and transferred to Mississippi in 1977. The other aliases used by this person were Earl Raynor, Patrick Kearney, James William Fuller, Brian Cecil Foley, Earl L. Henderson.

IDENTIFICATION

The problems encountered in the first law enforcement contact that we had with him, all his identification proved him to be McCabe. Through my experience over the years of talking to numerous people and conducting interviews, I knew this person wasn't who he was telling me he was although the identification said he was.

I received information from an informant, confidential information, and I was given the name of Earl Leroy Cassel and was given a Federal Bureau of Investigation number and was given Wisconsin as the area where he was from. With this information, I contacted the Federal Bureau of Investigation lab, gave them his name and requested all background information. The information wasn't sent. The reason, as I later found out, which probably later on you'll want to go into, was that they didn't have any.

But this crime was an extremely heinous crime and it did upset the public of Pascagoula and there was a lot of notoriety attached to it and it was a very in depth investigation; and we're lucky to come through with it to a successful end.

STATEMENT OF CAPTAIN HUDE, NATCHEZ POLICE DEPARTMENT

Senator COCHRAN. Thank you very much, Lieutenant Willis. Before getting into some of the other details of that incident, we'll hear now from Capt. Jack Hude of the Natchez Police Department. Captain Hude, please tell us about the incident that occurred in October of 1981, in Natchez involving Warren Simms.

Captain HUDE. Well, on October 5, 1981, Deposit Guaranty Bank was robbed and shortly after the robbery was reported, an Adams County deputy sheriff spotted the getaway car. A description was given on the getaway car, and he stopped the vehicle, at which time gunfire erupted, and the deputy fired back at the vehicle, and he arrested a black male at that time we knew as Sam Morris. When I arrived on the scene, there was a black female dead in the front seat of the vehicle and the money from the bank robbery was found in the vehicle.

CASE OF WARREN SIMMS

The next day, October 6, we went and talked with this Sam Morris, and he stated that his real name was Warren Simms, that he was under the Federal witness protection program known as Warren Steve Stevenson; and he got to telling us about his background. He was born in Vicksburg, Miss., and he was sent to Parchman Penitentiary at the age of 13 years old for forgery to serve 5 years. He moved from Mississippi to New York. In 1953 he was arrested for three bank robberies in Maryland and he was sentenced to 43 years. He served 10 years of that sentence and was paroled. He went back to New York and got involved with drug trafficking and was indicted by a Federal grand jury, at which time he went undercover with the Drug Enforcement Administration and the New York Police and they returned 80 indictments against other people in New York. He testified against some of them but they all were either convicted or pled guilty. He had to go back and serve 18 more months on his parole for the previous bank robbery. At the end of the 18 months he was put under the Federal witness protection program and sent to Muskogee, Okla. He stayed out there for approximately 4 years under the program and got into trouble again. From what little I've been able to find out about it, it was a food stamp violation and he was indicted by a Federal grand jury and he left Muscogee, Okla., and went to Baton Rourge, La., under the assumed name of Sam Morris.

DEATH OF TRACY STEVENS

The black female that was killed in the shootout he claims was his daughter, named Tracy Stevens. He also claims that she was under the witness protection program while he was serving time in jail in Little Rock, Ark. After he was released from prison, she had gotten into the Army and she was stationed at Fort Huachuca, Ariz. She went absent without leave from Fort Huachuca, Ariz., about 6 months before she was killed. The military police said she left—she was a good soldier and everything, but she just up and left. Her father said she told him that she killed a man out there, but during the investigation we found out she shot a burglar in her

house, thought she had killed him and left, and goes to Baton Rouge to stay with her father. They run out of money and she was wanting to relocate back in New York, so her father and her got in the automobile and drove to Natchez, which is 90 miles above Baton Rouge, to rob the bank so she would have money to go back to New York on, and Simms informed us of all this information.

I called Muscogee, Okla., the marshal's office, and asked did they know a Warren Simms, and they got rather upset about me knowing the man's true identity. They wanted to know how I knew about it and I told them the man is sitting here telling me about it. Well, they confirmed that he was one of their witnesses. I asked could I have some information on the man, and they said no, that they would have to get the OK from the Attorney General's office in Washington, at which time I said OK, and he told me he'd call me back. And he called me back and said, "I can't tell you anything. We'll have somebody contact you in person." About 2 days later a marshal from Mississippi did contact me, and he advised me he would get me all the information I needed on prior convictions and background, and we have yet to receive any information.

CONVICTION AND SENTENCE

Senator COCHRAN. At this time, have you been able to obtain a conviction in that case?

Captain HUDE. Yes; sir, he's been sentenced to life in prison for armed robbery and 20 years in prison for aggravated assault on a police officer.

Senator COCHRAN. Lieutenant Willis, what was the outcome of the prosecution of the case in Pascaganda?

PLEA AND INDICTMENT

Lieutenant WILLIS. We went to court and through the prosecution, in the first stages of it, there developed some problems and he was allowed to plead to manslaughter for 5 years and he's in the State penitentiary at this time on capital murder. He was indicted as a habitual offender, capital murder. This is one of the facts of his background and his propensity for violence has led through and is verified through his Federal Bureau of Investigation rap sheet, and this is under an act of Congress, prior to our conviction of this man, that I had to use to indict him under our statute of habitual offender, and it's quite extensive as you can see. I have also a three-page Federal Bureau of Investigation rap sheet here that indicates his extensive history in the criminal field.

FEDERAL PROTECTED PROGRAM

Senator COCHRAN. When you were talking with this accused during the investigation of this incident, did he tell you how he was able to get into this Federal protected witness program? Did you get into that with him at all?

Lieutenant WILLIS. No, sir; but I did find out because I was able to communicate with the U.S. attorney who prosecuted the case, Mr. Jim Striker; and also I had communications with the U.S. Postal Inspector who worked up and investigated the case in which

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Cassel was involved; and the incident that led him to be put under the program was he was a member of a three-gang ring that burglarized post offices, and they would burglarize the post office and steal the money orders and the checkwriter and protector. Then they would write all of the money orders up and go to different areas in other States and cash these checks. Now, this was the extent—he agreed to testify for the U.S. Government against these two other cohorts and my understanding, as I was told, that he verbally told the people that his life had been threatened, that one of the principals that was with him in the burglaries had attempted to poison him; and this was the justification that was used to put him under this program. As far as I was able to get information wise if any investigation was done to see if this was in fact true, and as far as I could find out there was none. It was taken on hearsay information.

Senator COCHRAN. Were you able to get into the details of the program with this particular defendant? In other words, what degree of assistance was he given in the program? Was he provided employment or any kind of financial assistance?

PROGRAM AID

Lieutenant WILLIS. Yes, sir. When he was given a new identity from Cassel to Earl Leroy McCabe and he was located in Mississippi and he was assigned to Marshal McMurtray out of Biloxi; and McMurtray went with him over to Ingall's shipyard, which has extensive Government contracts, and they got him a job there. In fact, security—I interviewed some of the security personnel, and they thought it was strange at the time because Mr. McCabe didn't know what to put on his application form as far as background and education history, and the marshal told him what to put down. They thought it was strange the man would be so stupid he didn't know where he went to school, that somebody else would tell him. They didn't think no more about it because they were told, you know, that if any questions arose that they were given his phone number and Marshal McMurtray's name to call. When he was put under the program he was receiving $819 a month, plus all medical bills paid, plus all relocation expenses, and this was in addition to the job money that he was given, and he started funding in Mississippi in November of 1977. He was transferred from Milwaukee, Wis. to Mississippi.

Senator COCHRAN. How long after he took this job at Ingall's did it take for him to get back into criminal activity?

Lieutenant WILLIS. As far as our investigation was concerned that the first contact period that law enforcement had with this person was the armed robbery/murder/robbery. I didn't bring it out, but after the man was killed he did rob the person, even took the rings off his fingers, turned his pockets wrong side out and took his wallet.

MONITORING OF ACTIVITIES

Senator COCHRAN. What degree of supervision, if any, do you know was given to him by the U.S. Marshals Service? Did you find out anything about the degree to which the Marshals Service fol-

lows up and checks on these witnesses, and this person particularly, after relocation?

Lieutenant WILLIS. As far as I was able to find out on the procedure that is followed is when a person is given a new identity and relocated and he's put under this program, wherever he's sent he's assigned to a marshal. This marshal is given, at that time—I don't know if the procedure has changed—was given no background at all on this person so they don't know if they have a law abiding citizen that has testified for the Government in maybe some covert Mafia or maybe some organized criminal activity and their life is indeed in peril or if he has a psychopathic killer that he's assigned. He has no way of knowing. The claim or statement was made that if this information is furnished to these people, the marshals, that they will be prejudiced in their handling of these people. My personal opinion is I don't think so. I think that the man would know how tight controls he would have to put on him and how much monitoring to be able to give this person.

Senator COCHRAN. Was there any contact with the Pascagoula Police Department or any of the law enforcement officials locally about the relocation or the potential danger of a criminal in that area under this program?

Lieutenant WILLIS. No, sir. We have—anyone that comes in, say, into the State or if a State prisoner comes in, our district attorney is notified. In this particular instance under the protection program, nobody knows, only the marshal that is assigned to him or the group of marshals. They're the only ones that know.

Senator COCHRAN. Captain Hude, in your experience in Natchez with the case involving Warren Simms, what did you learn about how he was admitted into the program? You told us a little bit about the fact that he was relocated to Oklahoma.

Captain HUDE. Right.

Senator COCHRAN. And he then fled Oklahoma, returning to Mississippi where he was originally from. Was there any information developed by you in the investigation that the U.S. Marshals Service was aware of the fact that Warren Simms was in Mississippi at the time he committed this crime?

Captain HUDE. They were not aware. They were looking for him. Like I said, he got indicted in Oklahoma and had left and went to Baton Rouge, La., and they had no knowledge of where he was at until I called them.

SUPERVISION AND MONITORING

Senator COCHRAN. Did you have a chance to talk with Simms about his experience with the program and the extent to which he was supervised or monitored by the U.S. Marshals Service?

Captain HUDE. He just told us that he had one marshal to answer to and if he had any problems he would call him, but he was free to come and go as he wanted, and he was financed by the Government.

Senator COCHRAN. Did you get into the details of that with him, how much he was paid per month or how he was supported by the Marshals Service?

Captain HUDE. No, sir, he would not tell me.

Senator COCHRAN. Did you find the Marshals Service cooperative during the course of your investigation of this criminal activity?

Captain HUDE. No, sir, I did not.

OBTAINING BACKGROUND INFORMATION

Senator COCHRAN. Do you feel that there can be changes made in the program's administration that would help safeguard local communities in which these witnesses are relocated? What can be done that's not being done, in your judgment?

Captain HUDE. One of the problems that local law enforcement is running into when these people commit another crime and they get caught, we cannot find anything out about their background. We may think we've got a first time offender and he might have a record four or five pages long like most of these witnesses we're talking about did have. We tried to indict this man as a habitual criminal and we were not able to get the proper court records to have him convicted as a habitual criminal.

Senator COCHRAN. Even after this person was arrested and charged with the commission of a crime, you still found it difficult to get background information from the Marshals Service with which to use in the prosecution and sentencing?

Captain HUDE. Well, the way I understand it, the Marshals Service—that's their orders and they have to go through the Attorney General's Office in Washington to get anything released. Now, they never did give us any information. Apparently, they couldn't get it. Now, I understand from the Federal Bureau of Investigation agent that was assigned to this case that—we sent his fingerprints to Washington to verify through their files who he was; and the way it was explained to me, those fingerprints have a flag on them. The prints come in and they identify the fingerprints, they have to get permission to release that information to local law enforcement because I called John Kelly, special agent in charge of the Federal Bureau of Investigation in Mississippi and he called Washington and got the OK for them to confirm the fingerprints; but other than that, that was the only way that we could do it. We've never received any information from the Marshals Service whether the daughter was a witness at one time or not. We've never been able to confirm that.

Senator COCHRAN. What was your experience, Lieutenant Willis, in obtaining information from the Marshals Service?

Lieutenant WILLIS. I didn't have any problem with the marshals. They were cooperative. The problem—like I say, their orders are such and they don't have the authority. The problem I run into was nobody seemed to know who did have the authority. It was like don't let your left hand know what your right hand is going to do; and if you do find out, who's going to tell which one to go where. But when I found the U.S. attorney who prosecuted the case, he interceded in my behalf and he called and talked to Mr. Safir, and I think he was out in a conference meeting and he talked to Mr. Shur, I believe it was, and then he called back that he had gotten hold of Mr. Safir and had given the authority or asked them or told them or whatever, anyway to release the necessary information to me, and after that, I didn't have any problem.

SOURCE OF INFORMATION

Everything came to me, but the procedure that was pointed out, I don't know when it was implemented but when I called the Federal Bureau of Investigation section and I gave them his true identity, his Federal Bureau of Investigation number, and I talked to Mr. Leiple, and they said they'd get right back to me and they never did. Two days later I returned the call and I requested again, and then I was beginning to get a little feeling that I was being jerked on. But what it was, from my understanding as I was told, that they didn't have them, that everything was transferred into the custody of the Marshals Service in Washington, that they didn't have any of it; but when we run up there and come in contact with these people, there should be some provision if it's like he pointed out with the flag—there should be some provision. The witness should be filed under his new identity and cross-indexed with his true identity and, his fingerprints and criminal record should be made available to state and local law enforcement.

PROBABLE CAUSE FOR ARREST

They're very important if you have latent evidence for comparison because this case of ours happened very near after the Supreme Court had ruled on the old procedure of police going out and picking a suspect up and bringing him to headquarters to interview him and interrogate him. They ruled that that is now—you know, then, it no longer will be tolerated. That if you pick someone up and you bring them involuntarily to the station, any evidence that is gained from then on is inadmissible because if you picked him up at that time and brought him to that station, he is under arrest; and if you didn't have probable cause to arrest him, any evidence then is inadmissible. We happened to be lucky enough that Mr. Cassel believed in the power of the U.S. Marshals Service that as soon as he got loose he was going to call and they were going to come over and see me and tell me to back off and let him commit murder and go along because he was a protected Government witness. He volunteered all the way, volunteered to come to the station, volunteered to let us take his prints, volunteered to let us take his photograph, even voluntarily gave us the tennis shoes that he still had on that he walked through the blood all over the crime scene. He had that much faith and it worked out for us; but if we'd had accessibility with the information that I had on his true identity and could have got a comparison on his prints that we already had forwarded there, the latents, you know, if would have been a lot safer and expedited quicker.

DETERMINING A FEDERAL PROTECTED WITNESS

Senator COCHRAN. In the case of Marion Albert Pruett, Mr. Tucker, how did you find out that he was a federally protected witness? How did this first come to light?

Mr. TUCKER. The first we knew of it was when the confidential informant told the Albuquerque Police Department. The informant knew Marion Albert Pruett's background, knew his assumed name and knew that he was a federally protected witness. If that had not been the case, I'm not sure how much trouble we would have had.

Senator COCHRAN. What is your recollection or what does the file show about how he got into the program and how he was selected to participate in the program?

HISTORY OF MARION ALBERT PRUETT

Mr. TUCKER. I was one of the officers that went to Amarillo, Tex., to pick up Pruett and bring him back to Jackson, and on the way back he talked pretty freely about the program. He was placed under the program because he testified as a witness to a murder which occurred in the Federal Penitentiary in Atlanta, Ga. Someone was assigned to his cell with him and a few hours later they were murdered. Pruett testified in that case and was placed under the program. That was in about October 1979, and he was relocated near Albuquerque, N. Mex., and given a monthly subsidy—I'm not sure how much. He got enough money or saved enough money or whatever that he bought a dump truck and went into the business of hauling dirt, and that's what he was doing until April 1981, at which time his wife was murdered and the sheriff out there issued a warrant for Charles Sonny Pearson, his assumed name; and at that time, once a warrant was issued, he was taken off the program is my understanding.

Senator COCHRAN. At the time Pruett was admitted into the witness protection program, he was actually serving a term in prison. Is that right?

Mr. TUCKER. Yes, sir. He had been in prison for some time. He had been convicted of at least two bank robberies and had escaped from one prison and committed a bank robbery while he was on escape. He was recaptured and was convicted of a second bank robbery and was serving time under the Federal statute for bank robbery.

Senator COCHRAN. So when he was put under the program, he was actually released from prison and relocated into an area in exchange for his testimony in that prison murder case?

Mr. TUCKER. Yes, sir.

Senator COCHRAN. Did you find out whether or not he was monitored or supervised or followed by the Marshals Service after he was relocated under the program?

IDENTIFICATION OF CRIMINALS

Mr. TUCKER. I don't know. We really didn't check into his background that close once we got him identified and knew who he was and so forth.

I would like to comment on one thing that Mr. Willis commented some on. If someone in the State knew these people were there and something about their background and particularly if we had access to their fingerprints. In this case we had latent prints in at least three different bank robberies. However, we were unable to identify anyone through these latent prints. One of the procedures we used was to go to the computer and see who had been convicted of similar-type crimes over the United States—Federal Bureau of Investigation did this—and as they would kick these names out, fingerprint cards would be pulled on these people and the latent prints compared against their recorded prints; and if Pruett's

prints had been available, if his name had been kicked out of the computer as a suspect—possible suspect, and prints compared, he probably would have been identified a lot sooner than he was. As it was, the confidential informant turned over the information which ultimately led to his arrest—to the warrants and arrest.

Senator COCHRAN. Now, we've talked about three specific incidents that have occurred here in Mississippi that you each have had a role in investigating and solving. You've dealt with the U.S. Marshals Service in connection with all three of these incidents. Do you have any information about other incidents that the committee may not have asked you about, either difficulties encountered with criminal activity by relocated witnesses in the State or difficulty with creditors or where innocent parties have been harmed in some way by the Federal witness security program? Do you have any other information that you could provide us?

Mr. TUCKER. I don't.

Lieutenant WILLIS. No.

Captain HUDE. No, sir.

PROTECTION BY FEDERAL GOVERNMENT

Senator COCHRAN. There was some indication in the Pruett case that in Albuquerque the local law enforcement officials had taken him into custody but had difficulty developing the facts of the case, weren't able to prosecute and ended up releasing him. Is that right?

Mr. TUCKER. Yes, sir.

Senator COCHRAN. He had been protected by the Federal Government. It was then that he came here and continued that spree of killing and criminal activity that we're all now so familiar with. How did you find out about that?

Mr. TUCKER. I contacted the sheriff's department—I don't recall the name of the county, but it's the county in which Albuquerque is located, and talked to some officers over there, the under sheriff and others, and they were very disturbed about the fact that Pruett had been placed in their county without any knowledge to them; and they had experienced quite a bit of difficulty getting anything on his background and all the time thinking his name was Charles Sonny Pearson; and it wasn't until this case came to light that they really realized who he really was.

Senator COCHRAN. This case being the Peggy Lowe case?

Mr. TUCKER. Yes, sir.

PICKUP AND RELEASE OF SUSPECT

Senator COCHRAN. And they had actually had him in custody there but released him?

Mr. TUCKER. Yes, sir, they picked him up as a suspect in the murder of his wife and did release him, and then later, sometime later, did issue a warrant for his arrest. In the meantime he had left. This was not the first thing he did after then though. He first went to Seattle, Wash., or went to Seattle, Wash., prior to coming here and is suspect in a bank robbery there. He's also suspect in a bank robbery in Texas and one other before he came to Jackson, Miss.

Senator COCHRAN. Well, I appreciate very much all of you being here today and providing the committee with this information. You've been very helpful. We want to thank you for cooperating in advance of the hearing with members of our staff who contacted you. We appreciate it very much. Thank you.

STATEMENT OF SUSAN BODA, HUNTSVILLE, ALA.

DIFFICULTIES OF CREDITORS DEALING WITH PERSONS LOCATED IN NEW AREAS

Before we ask the other witnesses to come forward from the Department of Justice and the U.S. Marshals Service, I want to note for the record that, in the course of our investigative activities in the subcommittee, we have uncovered evidence of difficulties of creditors in dealing with persons located in new areas, under new identities in the Federal witness protection program. Specifically, we have information about a case involving a bank in Omaha, Nebr., and a case in Huntsville, Ala. I know that we have here this morning, Susan Boda of Huntsville, Ala., who has provided us with information about a case that she has had difficulty in resolving because of the constraints of the program. I wonder if, Ms. Boda, you would object to telling us a little bit about that situation. We appreciate your coming here and providing us with the information. I know this is without warning, and I apologize, but you do have some important information which could help to improve the operation of this program.

We understand that you were introduced to a person who was a protected witness and told that he was an employee of the Department of Justice. Could you tell the committee what your dealings with this witness were and what your observations are about the difficulties that you encountered?

Ms. BODA. I was introduced to a protected witness by the name of Peter Abate, who also had many aliases.

Senator COCHRAN. Just so we have the record straight, how do you spell his last name? Do you have that?

Ms. BODA. When I was introduced to him, he was using the spelling A-b-a-t-e. My understanding is his name was originally Peter Auer, A-u-e-r; then he was known in Boston as Peter Aber, A-b-e-r; then he came to Huntsville, Ala.; then he went to Jacksonville, Fla. I believe he also may have for a short period of time been in Atlanta, Ga., but when he went to Jacksonville, Fla., he set up a sting operation there for, I believe the Federal Bureau of Investigation and he used the name Abbott, A-b-b-o-t-t; and from that point forward I have not bothered to keep up with him.

I was introduced to him, as I said, by my former attorney who is now the district attorney in Madison County; and Mr. Abate was introduced to me as a retiring Federal Bureau of Investigation agent who had just inherited approximately $12 million; and my attorney called me long distance because I was temporarily out of the State and told me to come back because he had arranged for this business transaction. I met Mr. Abate one day and he confirmed all these arrangements along with my attorney for an investment of approximately $250,000. Then he called me up the next day early in the morning to warn me of an impending swindle by

some bank officials at the bank of Huntsville, the bank president and an advisory board member who were trying to find a legal way to obtain access to this ring, and that he wanted to help me, you know, prevent this from occurring; and so he offered to loan me some money and the papers were all set up and arranged by my attorney.

JUDGMENT AGAINST PROTECTED WITNESS

There were witnesses to all of this. All of it can be documented, everything that I say.

To make a long story short, Mr. Abate took the ring, he reset it, or he had a local jewelry store reset it, and he left the State. I filed suit for breach of promise and for conversion for having reset the diamond in a different setting; and Mr. Abate was served through the Marshals Service with all the appropriate special services of process and these were all returned. This has since that time been confirmed by other Department of Justice officials, but nothing has ever happened. I also have a judgment saying that he is to return the ring and he's been served with that. He has totally ignored it. After he ignored the judgment, then there was a warrant issued for Mr. Abate's arrest on April 21, 1980, and it was 1 week after that that the former U.S. attorney—former U.S. attorney in Massachusetts, Edward Herrington, wrote the former district attorney in Madison County and asked that they not extradite and prosecute because of his involvement in an ongoing Federal Bureau of Investigation investigation.

Senator COCHRAN. So you have a judgment against him for money damages of $70,000 as well which you can't collect?

Ms. BODA. Yeah, if you include the value of the ring and you include the money damages, it's approximately $150,000.

Senator COCHRAN. So you're out $150,000 because of your encounter with this person under a Federal program.

Ms. BODA. That's correct.

Senator COCHRAN. And you can't collect on the judgment because he's still being protected by the Marshals Service. Is that correct?

ARREST AND RELEASE

Ms. BODA. That's correct. Several months after the April transaction when the warrant was issued and then the U.S. attorney in Massachusetts wrote asking that he not be extradited and prosecuted, he was arrested in Jacksonville, Fla. on August 4, 1980, and then there is court testimony from some of the trials down in Florida which I just received last week, where he called an agent by the name of Mike Collins, and he was the one who got him out of jail after approximately 10 or 12 hours, they say.

But there's some other interesting things, too, that came out of the testimony. One is that when the problems arose, Mr. Abate testified that Mr. Herrington had him flown to Boston and that Mr. Harrington asked to see the ring, and that Mr. Herrington then took it to someplace in Boston, I assume, although that's not specified, and had it appraised someplace else for $6,500. Now, the owner of the local jewelry store, Mason's Jewelers, in Huntsville, Ala., has told a former assistant district attorney that their store

had indeed reset the ring for Mr. Abate; and if Mr. Abate's testimony is true, then very likely he switched stones and had the stone duplicated and had another one that was in the setting that Mr. Herrington had appraised.

Senator COCHRAN. Ms. Boda, I want to thank you very much for being here today and for providing this information. It will be very helpful to us in our review of this program in trying to determine ways to prevent such incidents from happening and safeguard the interests of innocent persons who are dealing with those who are protected by the Government under this program. Thank you very much for being here.

Ms. BODA. Certainty.

DEFAULT ON LOAN

Senator COCHRAN. At this point, too, I want to include in the record on the same general subject some correspondence that we have received from John Bedner, vice president of the Bank of Millard in Omaha, Nebr. In summary, this involves a situation where in February 1979, a bank officer was approached by an official of the U.S. Marshals Service concerning the extension of credit to protected witnesses Richard and Donna Conti for the purchase of a car. This official advised the bank officers that the Contis had no record of bad credit. They were loaned money for two cars, then defaulted on the loans and left the area with the cars. When the bank officer contacted the U.S. Marshals Service, he was informed that the Contis background would not be uncovered except for criminal charges and that they had left the program. After much delay, the bank was successful in serving process on the Contis through the Marshals Service and succeeded to obtain a judgment. The bank had stated to the Marshals Service that it would accept return of the vehicles as full satisfaction and has repeatedly requested the Service's assistance in recovering damages for the incident. That basically is the problem that we were advised about in correspondence to us in Washington in connection with this hearing.

At this time before we move into the questioning of our witnesses from the Department of Justice and the U.S. Marshals Service, we'll recess for 10 minutes. The subcommittee will reconvene at 11:20.

[After a 10-minute break the hearing continued as follows:]

SUBCOMMITTEE PROCEDURE

Senator COCHRAN. At this time I would like to ask the subcommittee to return to order.

Our next witnesses are from the Department of Justice and the U.S. Marshals Service. I would like to ask them to come forward to the witness table, please. We have with us Gerald Shur, the Associate Director, Office of Enforcement Operations of the Criminal Division of the Department of Justice and Howard Safir, Assistant Director of Operations, U.S. Marshals Service. They are accompanied by Margaret Hutchinson of the Criminal Division of the Department of Justice. We welcome each of you and thank you very

much for cooperating with the subcommittee in the conduct of this hearing.

STATEMENT OF MIKE, PROTECTED WITNESS

Before getting into your statements, I want to relate to you an incident which occurred after notice was given that the subcommittee would hold this hearing here in Jackson. On the day after the hearing was announced, a call was received in my office from a person who would identify himself only as "Mike." He stated that he had been told by a U.S. marshal that if he gave his name or phone number to anyone at all he would be removed from "the security aspect" of the program. Mike stated that he is a protected Witness and that he has been relocated to the State of Mississippi.

I want to read at this time portions of the statement.

HISTORY OF MIKE

Mike said that in early 1970 he became involved with a gang of about 10 persons in another State. This gang was involved in criminal activities of many types, especially the sale of firearms, arson, and robbery. In 1974 he was suspected correctly by the gang of being a police informer in a $100,000 robbery of a coin dealer. An attempt to kill him resulted in Mike's killing his assailant. Mike ultimately pled guilty to manslaughter in a State court in 1975 and was sentenced to 5 years imprisonment. He spent all 5 years in solitary confinement for his own protection. In December 1980, Mike was interviewed once by U.S. marshals concerning his entry into the witness security program on his release. He heard nothing more from them until March 1981 when he was released. At that time the marshals picked him up, had him sign a memorandum of understanding, admitted him into the program, and on the same day moved him to Milwaukee, Wisconsin. There he was met by a marshal, given money, put into a hotel at Government expense and left entirely on his own. He was given no documentation or orientation to the program at all. He next saw the marshal when the marshal came to put him on a plane for final relocation to Mississippi.

EMPLOYMENT AND INSURANCE APPLICATION INFORMATION

In Mississippi, Mike received a new social security card, a local driver's license and a passport in lieu of a birth certificate. He received no form of résumé regarding his education or job background and no assistance in finding a job. He said the marshal told him he didn't have time to help him find a job. Mike said he looked for jobs on his own but without any background references to give potential employers, he couldn't find employment. When Mike bought car insurance, he realized that most of the information he put on the application was false. He said he asked the marshal what would happen if he were in an accident and seriously injured someone and the insurance company refused to cover him because of his false application. The marshal told him that if anyone tried

to sue him, then the Government would just move him out of the State to avoid the suit. Mike said that to his knowledge the local police were not advised by the marshals of his criminal past nor were they even told that a relocated witness was living in their town. He said he understood why the local police should have been so informed.

In early June, Mike was terminated from the program, that is, he received no more financial assistance. He is now unemployed, has no source of income and he's had no help in finding a job.

RECIDIVISM

He told us he could easily see how a person removed from jail, put directly into the program, given no supervision, no adequate documentation and no job assistance could go crazy like Pruett—to use his words—or return to a life of crime in the new area where he had been relocated.

DEPARTMENT OF JUSTICE

Departmental Witnesses

STATEMENT OF:

GERALD SHUR, ASSOCIATE DIRECTOR, OFFICE OF ENFORCEMENT OPERATION'S CRIMINAL DIVISION

HOWARD SAFIR, ASSISTANT DIRECTOR FOR OPERATION'S U.S. MARSHALS SERVICE

ACCOMPANIED BY MARGARET HUTCHINSON, CRIMINAL DIVISION

PREPARED STATEMENT

With that background and the information that's been provided to the subcommittee this morning by other witnesses, I would like for you, if you could, to give us the benefit of your experience and information about this witness security program.

First, Mr. Shur, we have from you a full statement which we want to thank you for; and at this point we will make that statement in its entirety a part of the record. I would like to encourage you to make summary comments or give us the highlights of that statement. I don't think it's necessary to read the statement at this point in full. Then we'll hear from Mr. Safir and delve into my questions about the program.

[The statement follows:]

STATEMENT OF GERALD SHUR

I appreciate the opportunity of appearing in Jackson today to discuss with this Committee the views of the Criminal Division with respect to the operation of the Witness Security Program of the Department of Justice.

As I'm sure you know, the Witness Security Program was created by the Organized Crime Control Act of 1970 with a singular purpose: to allow the criminal justice system to function so that those members of criminal syndicates committing the most serious crimes could be brought to trial. Prior to 1970, we had found it very difficult to successfully prosecute major racketeers and narcotics peddlers and other serious offenders because of our inability to produce witnesses willing to testify against these dangerous criminals. Simply put, potential witnesses in those cases were either being murdered or intimidated to prevent their testimony. The result of course, was to allow those we knew to be committing serious crimes to continue their illegal activities without fear of going to jail. This was an intolerable situation.

We often knew who the criminals were. We knew the suffering they caused in the communities in which they conducted their illegal activity, whether it be by the sale of narcotics, the taking over of a business by extortion, bribery of public officials, or exploiting those in need of money through loansharking. To stop these crimes and others like them we had to develop a technique that would allow us to place witnesses on the witness stand and know they would not be murdered when they finished testifying.

The solution was the development of the Witness Security Program. As a result, the Federal Government's ability to

combat organized crime, public corruption, major narcotics organizations and other highly sophisticated and very dangerous criminal activity has been sharply enhanced. During the 1970's, the emphasis of federal law enforcement shifted to the pursuit of very dangerous criminal organizations, many of which are making millions of dollars each year from their criminal activities. As you are aware, these organizations are extremely difficult for law enforcement to infiltrate and thus the cooperation of insiders has become crucial to their successful prosecution. These criminal organizations have the resources necessary to protect themselves including enforcers who maintain the internal integrity of the organization. Insiders who provide information about the organization's activities to law enforcement know that they must face the consequences in the person of the enforcer should their cooperation become known, and their cooperation most certainly will become known to the defendants through the course of the investigation and trial.

That the Witness Security Program has proved to be an effective tool for law enforcement is no longer questioned. The testimony of protected witnesses has resulted in many thousands of convictions of high-ranking members of major organized crime groups. These convictions would not have been possible if the Witness Security Program had not been available to protect the government's witnesses. The more significant the case, the greater likelihood a relocated witness was involved.

As a result of the Program's success in protecting witnesses and allowing them to provide critical testimony, the number of witnesses entering the Program increased dramatically in the 1970's. In 1971, 92 witnesses were protected under the Program. From 1975 through 1977 an average of 450 new witnesses

entered the Program each year. The thousands of individuals being charged and the resulting number of witnesses entering the Program placed tremendous burdens on the United States Marshals Service.

As a result of the severe shortage of staff, complaints about services being rendered to witnesses were high. There were continuing efforts to correct the Program's deficiencies and in July 1977, the Deputy Attorney General responded to this internal concern by creating an independent committee to review the Program and its need and to make appropriate recommendations for improvement. The Deputy Attorney General's Witness Security Program Review Committee conducted a thorough review, as did the Senate Committee on Administrative Practice and Procedures at about the same time. These two reviews resulted in substantial changes in the operation of the Program by both the United States Marshals Service and the Criminal Division.

In response to the Review Committee's recommendations, the Office of Enforcement Operations was created in the Criminal Division in February 1979, and was assigned sole responsibility for the Division's role in the Witness Security Program. Prior to the creation of the Office of Enforcement Operations each litigative section in the Division had the authority to place witnesses in the Program. The criteria for admission to the Program were set by each Section according to its needs and there was no centralized control over the number of witnesses who entered the Program. The creation of the Office of Enforcement Operations resulted not only in the centralization of control over admissions to the Program, but also in the application of uniform admission criteria. The Office of Enforcement Operations now has the primary authority for determining which witnesses will be assisted in the Program.

The Review Committee also established firm criteria for admission to the Program: A witness may be authorized to participate in the Program if he is to testify as an essential witness in a specific case which is important in the administration of criminal justice and which has a connection to organized criminal activity, where, because of the testimony, there is a clear indication that the life of the witness is or will be in jeopardy. Relatives and associates of witnesses may be offered assistance if their lives are jeopardized by virtue of the witness' testimony. In addition to establishing these criteria, the Review Committee also recommended that no more than 360 new witnesses be authorized to enter the Program each year; a number they believed would be manageable by the Marshals Service.

More recently, the legislative history of S 1630 has indicated the Senate's desire that the broadest possible definition be applied to organized crime so that almost any significant case demanding witness protection may qualify. Indeed, a criminal prosecution is not the only requisite for protection. Testimony before the United States Senate or other official body could qualify a witness for the Program.

Once this mandate was given to the Office of Enforcement Operations, the Office designed a new procedure for reviewing applications to use the Program. The initial application to use the Program is submitted to the Office of Enforcement Operations by the United States Attorney whose office will be using the witness' testimony. The Office of Enforcement Operations has recently implemented the use of the Witness Security Program Application Form (copy attached), which requires the prosecutor to submit very specific and detailed information about the significance of the case, the prospective

defendants, the witness' testimony and the anticipated benefits of successful prosecution. The Office of Enforcement Operations forwards a copy of the prosecutor's application to the appropriate litigative section in the Criminal Division and asks for their views concerning the significance of the prosecution, the significance of the prospective defendants in light of their criminal activity and of course, the significance of the witness' testimony.

In addition, the investigative agency involved submits to its headquarters a report detailing the threat to the witness and describing the need to use the Program. Agency headquarters reviews this report and forwards it, along with the headquarters' recommendation, to the Office of Enforcement Operations. While these two independent reviews are being done, the United States Marshals Service is asked to interview the witness and the adult members of his/her household to ensure that the witness understands what the Program can and cannot do and to identify what problems may arise in the relocation process. In addition, the witness is advised of what conduct is expected of him or her. United States Marshals Service headquarters then forwards a copy of this preliminary interview report to the Office of Enforcement Operations along with its recommendations concerning the witness' suitability for the Program.

When this process is completed, the Office of Enforcement Operations reviews and considers all four reports (the prosecutor's request, the litigative section's assessment of the case, the agency's assessment of the danger, and the United States Marshals Service's assessment of the witness' suitability for the Program) before making its decision. If the investigative agency headquarters determines there is no threat to the

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witness, the prosecutor's request is denied. If the litigative section determines the case is not important, or that the witness' testimony is not essential, or that the evidence is not sufficient for conviction, the request is denied. If the United States Marshals Service determines that the witness is not a suitable candidate for the Program and the anticipated problems in relocation are insurmountable, the request is denied.

In cases involving witnesses who are or will be prisoners, the authorization is contingent upon the witness passing a polygraph examination administered to the witness by the FBI. If the examiner determines that the witness is not being truthful, authorization for entry into the program will be rescinded.

We have found that this review procedure has significantly reduced the number of new entries in the Program. In fiscal year 1981, 191 witnesses (plus family members) were authorized to enter the Program for full services, including relocation, limited documentation in a new identity, limited subsistence, and job assistance. An additional 69 witnesses were placed under the Bureau of Prisons' care while incarcerated which means they are separated from other inmates who may attempt to harm them, redesignated to a safe institution, provided with a new name if necessary, and given very close monitoring by the Bureau of Prisons and the Office of Enforcement Operations. Both relocated witnesses and prisoner witnesses are provided with United States Marshals Service protection when they must return to a danger area to provide testimony or otherwise assist law enforcement. Upon release from incarceration the need for continuing protection for a prisoner-witness is reevaluated and a new determination made as to what assistance

shall be furnished. If the witness' life continues to be in danger because of his cooperation, relocation services may be authorized after he is released.

The total of 260 new entries into the Program in FY 1981 is well below the limit of 360 recommended by the Review Committee and significantly lower than the average of 450 per year in the mid-1970's. In addition, our monitoring of admissions has resulted in a significant upgrading of the prosecutions for which witnesses are placed in the Program and an increased certainty that there is no other alternative to ensure the witness' safety at that time.

As I mentioned earlier, the very nature of the criminal organizations the Department is prosecuting dictates that most of the participants in the Program have been involved in the organization's activities and have a criminal background. It is because these organizations are tight-knit and difficult to infiltrate that law enforcement must rely on insiders to provide the evidence needed for successful prosecution. It is very unusual for an honest, law-abiding citizen to know enough about the crimes committed by these groups to testify against them. In fact, many participants in the Program are prisoners. Some are serving sentences as a result of the criminal activity about which they later testify and some witness serious crimes while in prison (such as murders and escapes).

The fact that most relocated witnesses have criminal backgrounds has always been a great cause for concern in the Department and we have taken steps to ensure that new crimes committed by relocated witnesses will not go unpunished. If a relocated witness is on federal probation or parole, and the sentencing judge has ordered that he be supervised, arrange-

ments are made for the Probation Division to supervise in the new location under the new name. All Probation Division rules and regulations used in the supervision of all probationers or parolees apply to the relocated witness, and if he violates his probation or parole, the same revocation procedures apply. Regrettably only in the last 6 months have the Parole authorities established procedures for supervision of all parolees. The only special consideration given to Program participants on probation or parole is the protection of their new identities and their status as relocated witnesses. If the witness commits a new crime after relocation he will face the full consequences of his action as would any other person. If a witness is convicted and sentenced to a period of incarceration we will arrange for him to serve the sentence imposed by the court in a safe prison environment. Beyond that he will get no special consideration.

Relocated witnesses who are not on court ordered, supervised probation or parole are not supervised in any way by the United States Marshals Service after relocation. The Service has no legal authority to do so and the witness enjoys the rights and responsibilities of any other citizen. However, it must be pointed out that a recent study by the Marshals Service has revealed that the recidivism rate among relocated witness is 17%. This rate is significantly below the national rate and indicates that the services provided under the Witness Security Program may actually discourage the return of its participants to criminal activity.

I realize that this fact will provide little comfort to the victims of the crimes committed by relocated witnesses. Indeed, the return to crime by relocated witnesses has always

been a source of frustration to me and my colleagues. No matter how much success we have in keeping the recidivism rate down, we are deeply disturbed by every crime committed by the participants in this Program and will always work diligently to do all that we can to prevent these crimes from being committed.

Any suggestions this Subcommittee may have for improving the operation of the Witness Security Program are very welcome. I appreciate this opportunity to discuss the Program and hope that this statement will assist the Subcommittee in its review.

All sections of the application must be filled in. While most of the requested information is self-explanatory, the following items are particularly highlighted.

Dates: All dates are to be listed in month, day, year order.

W.C. No.: Not to be completed by applicant. This number is for internal use of the Office of Enforcement Operations (OEO).

Sponsor: Please note that your endorsement of a state/local entry obligates you to provide follow-up information and to act as liaison between the state/local prosecutor and OEO.

State/Local requests: Due to federal budgetary restraints, only reimbursable requests should be forwarded to OEO for WSP consideration.

Identification of Witness:

Name: List complete name. In cases where witness' name is of a foreign language, such as Spanish or oriental, please indicate the last name by underlining.

Address: List the current address. This information is used in determining U.S. Marshals Service personnel who will conduct the preliminary interview.

If the witness is also a prisoner, identify the site of incarceration.

FBI No.: This number is essential in order to place a stop notice on the fingerprint file of a WSP witness. If the witness has no FBI number, please so indicate.

Names, etc., of family/household members to be *protected*

Address: If same, as the witness, list "same"

Date/Place of birth: FBI "stop" notice will be placed for all adult members. Thus, it is essential that birth information is provided, in addition to FBI number if one exists.

Threat to the Witness

Brief description. A more detailed explanation will be provided by the headquarters office of the investigative agency. Please advise the investigating agent to forward a threat assessment directly to his/her headquarters office immediately.

Detailed identification of persons who pose a threat to the witness, including defendants/prospective defendants against whom the witness will testify or has testified, is essential to effectively protect and separate the witness from them. Without this information, the Bureau of Prisons cannot designate incarceration sites nor can the United States Marshals Service select secure relocation sites.

Protection of the witness prior to WSP pick-up

Protection of the witness during the WSP review process and until U.S. Marshals Service pick-up is the sole responsibility of the investigative agency.

U.S. Department of Justice
Criminal Division

Witness Security Program Application

WC# _____ *(OEO use only)*

Case Attorney

Name: _____

FTS#: _____

Date of Request ___ ___ ___
Date Admission needed (*approximate*)
(*e.g. Grand Jury date or sooner*) ___ ___ ___
Anticipated date of testimony ___ ___ ___
Anticipated date of completion of testimony ___ ___ ___

Sponsor: ☐ U.S. Attorney: Judicial District _____
☐ Strike Force
☐ Criminal Division Section
☐ Other DOJ Division (*specify*) _____
State Prosecutor:
☐ Reimbursable
☐ Nonreimbursable
☐ Other _____

Investigative Agency: ☐ Federal (*specify*) _____
☐ State/local: location (*city/state*) _____

Name of Case Agent: _____ Phone: (____) _____
Name of Prosecutor, if local: _____ Phone: (____) _____

Identification of Witness

NAME: _____ Alias: _____
Address: _____
(*Street*) (*City/State*)

(Prepare Prisoner Witness Information Sheet for Prisoner Witnesses in addition to this form.)

Date/Place of Birth: ___/___/___/___ _____
Sex: ☐ M ☐ F Race: _____ Citizenship: ☐ U.S. If not, status _____
Alien No. _____
Social Security No. _____
FBI No. _____ (*Attach a copy of the rap sheet.*) Police No. _____

Names of family members or others to be protected for this witness

Name	Address	DOB/Soc. Sec. No. Place of Birth	Relationship
		/	
		/	
		/	
		/	
		/	

FORM CRM-163
MAY 82

Witness Name: _____

Does the witness, or others to be protected, have medical problems or history of drug abuse?
☐ Yes ☐ No If yes, attach an explanatory statement.

Does the witness, or others to be protected, have any parole or probation restrictions?
☐ Yes ☐ No If yes, list restrictions.

Name of Parole/Probation Officer: _____ Phone: (____) _____
City/State: _____

Significance of Case

What is the significance of this prosecution? What is your objective in this case?

As a result of a conviction in this case, the criminal activity will:
☐ Cease ☐ Have no impact
☐ Be continued by someone else ☐ Unknown
Comments:

What is the scope of the illegal activity for which defendants are being investigated?
☐ International ☐ Regional
☐ National ☐ State/local

Witness Name: _____

Summarize the testimony to be provided.

List names of individuals for whom witness protection has previously been requested in connection with this case:

List names and locations of other individuals connected with this case likely to be placed under the Witness Security Program:

Witness Name: _____

Has the witness been debricfed as to ALL knowledge of ANY criminal activity?

☐ Yes By whom? _____ _____
Name Agency

☐ No

Summarize the information discovered during debriefing:

List and attach copies of all indictments or anticipated indictments as a result of information provided by this witness. Include U.S. Attorney's control number (*district, division number, complaint number, defendant number*). For each indictment provide case name, docket number, date filed, and charges.

List all agencies which have made or may make use of the witness' information:

Agency	Date Information Disseminated
_____	☐☐☐
_____	☐☐☐
_____	☐☐☐
_____	☐☐☐

Witness Name: _____

Threat to the Witness

Describe the danger to the witness:

Assess the immediacy of the threat at this time:

- ☐ Violence has occurred.
- ☐ Witness has received verbal threat.
- ☐ There is potential threat upon disclosure of witness' cooperation.
- ☐ There is minimal threat.
- ☐ Other _____

Has the witness' cooperation with the Government been disclosed?

☐ Yes ☐ No

To Whom? _____ When? _____

How?

Attach a list of persons posing threat, IF OTHER THAN THE DEFENDANT. Include FBI number, police numbers, and attach photographs and rap sheets for all persons posing a threat. Additionally, for incarcerated persons who may pose a threat either in prison or upon release include date of birth, sex, offense, and ethnic origin.

List the danger areas (*and unsafe institutions in the case of prisoner witnesses*):

Is this person presently being protected?

☐ Yes ☐ No

By what agency? _____ When did protection begin? | | | | | | | | (*Date*)

Witness Name: _____

Defendant Information

(*SUBMIT THIS DATA FOR EACH PROSPECTIVE DEFENDANT.*)

Name of defendant/prospective defendant: _____

Address: _____

Date of Birth: | | | | | | | Sex: ☐ M ☐ F Ethnic Origin: _____

FBI or Police No: _____ (*Attach rap sheet.*)

What is this person's role in the illegal activity? (*Describe the offense and specify title and section of violation.*)

Is this person part of a crime organization?

☐ Yes ☐ No

What is the crime organization? _____

What is his/her role in the organization? _____

Will the role be filled by someone else if the defendant is incarcerated?
☐ Yes ☐ No Who (*if known*)? _____

What is the relationship of the witness to this defendant?

Please include any additional information, special requests, or comments below.

Sponsoring Attorney: _____ Phone: (____) _____
(*Print or type name*)

_____ _____
(*Signature*) (*Date*)

United States Attorney: _____ _____
(*Signature*) (*Date*)

PRISONER WITNESS INFORMATION

Witness Name: _____
Name under which person is incarcerated: _____
BOP number: _____

☐ Federal prisoner — Parole eligibility date ☐☐/☐☐/☐☐

☐ State prisoner — Mandatory release date ☐☐/☐☐/☐☐

☐ Local prisoner — Anticipated parole date ☐☐/☐☐/☐☐

Offense for which incarcerated: _____
Place of incarceration: _____
Current sentence: _____

If unsentenced, anticipated sentencing date ☐☐/☐☐/☐☐

Judge's name and district: _____
Bail bond status: _____
If awaiting trial, provide details (*i.e., anticipated trial date and outcome*)

List outstanding warrants or detainers:

Attach copies of the pre-sentence investigation or prison classification material and any judgment or commitment papers.

WITNESS SECURITY PROGRAM

Senator COCHRAN. Mr. Shur, you may proceed.

Mr. SHUR. Thank you. I appreciate the opportunity of being here. It's a very, very difficult program, as we've been hearing today, and it has some very, very distressing features to all of us. Those of us who are dedicated to fighting crime share an extraordinary frustration when we hear about crimes as we've heard about today.

Let me move away from my statement and make that a part of the record and perhaps I can be helpful in some other ways.

Senator COCHRAN. Sure.

Mr. SHUR. The witness program began in 1970, precisely for the purpose of making inroads in an area where the Government had been totally unsuccessful, in attacking syndicated criminal activity, that is organized criminal activity. These were areas that we just could not penetrate because people who testified or furnished information in those areas were being murdered and there were a goodly number of murders prior to 1975 of people who had helped us in the organized criminal area. The practical result of these murders was we did not have witnesses who would testify. The U.S. attorneys were confronted with the problem of going forward with the case, knowing that if they put a witness on the witness stand and he was helpful, he was going to be murdered when he walked off the witness stand. We needed an alternative to that and that was the witness relocation program.

It has undergone considerable change from 1970 when the program was authorized under the Organized Crime Control Act of 1970 through today. Many of the problems raised this morning are problems which originated some years back. Some problems we are still confronted with.

RECIDIVISM

I should like to express some policies right up front that go right to the heart of some of the things that were said today. It is the policy of the Department's Criminal Division and the Marshals Service that any witness who enters this program is expected to be law abiding, and if he is not law abiding, we expect that he will suffer the full consequences of whatever law he may violate, Federal or State; and I can add that we have prosecuted, federally, individuals who have violated the Federal law after they entered the program.

I should point out that we're talking about approximately 17 percent of 3,900 people that have been admitted to the program since 1970. Seventeen percent have been recidivists. When comparing that to prison rate of recidivism, that is a low rate. When comparing that to the suffering that goes on when people are killed or when people are injured, no rate is satisfactory. It has to be zero. Whether that's realistic or not is something else, but that's what we strive for.

COOPERATION BETWEEN AGENCIES

When an individual is arrested by local law enforcement, it is the practice for us to notify the Federal Bureau of Investigation

and the U.S. Marshals Service, and indeed the marshals sometimes are notifying us instead, or the Federal Bureau of Investigation, telling us that these people have been arrested. This may occur because they are using assumed names. For this reason stops are placed at the Federal Bureau of Investigation so that we would know that a gentleman or woman has been arrested and we may soon find that he's not such a gentleman or lady; and we then ask the investigative agency to furnish full support to the local police or prosecutor.

I noted during the statements this morning frequent references to the Federal Bureau of Investigation cooperating in some of the investigations. In the bank robbery that occurred here in Mississippi, I personally had authorized the use of hypnosis of some people in the bank in an effort to solve that crime. I did not know Mr. Pruett was involved at that momemt.

PURPOSE OF STOPS

So the stops are placed and it is the intent of the Department that those people be prosecuted, and the only thing that is offered to them once they are charged is that in the event they are convicted and the State believes that they cannot keep them alive in prison, they will be accepted back into a Federal institution where we will assume the responsibility for their survival. In some instances States have asked us to do that; in others they have not.

PRISON IN ATLANTA

With respect to Mr. Pruett, I'd like to point out that when he was authorized into the program, he was authorized as a prisoner and was romoved to another prison to serve, I believe, an additional 18 months. He was given a parole benefit, and I think that was about 11 months less than he would have served had he not told us about the killing of Mr. Zambito. Mr. Zambito, I should point out, was a member of a very, very large heavily involved narcotics syndicate. He was killed within less than 24 hours after his arrival in the Atlanta Penitentiary; and at that time there were several murders in Atlanta. He made the ninth murder in the Atlanta Penitentiary in an 18-month period. Prior to that 18 months there was, I believe, one murder a year in Atlanta; and Bureau of Prisons and the Congress in its wisdom was saying you've got to do something about Atlanta even if you have to shut it down; and it was very, very important that that case be solved. Mr. Pruett helped, was sent to another institution and stayed there another 18 months.

APPLICATIONS INTO AND STANDARDS FOR WITNESS PROGRAM

Now, when people are released from prison they are again authorized into the witness program. That would make two authorizations. The first would be while he is a prisoner. The second would be some months or years later when he or she is released to see whether or not he or she needed additional assistance. Mr. Purett was authorized again into the program upon his release and the Marshals Service took hold of him and found him employment.

I should mention that Mr. Cassel or McCabe would not be admitted to the witness program today under today's guidelines. Two and a half years ago the office of which I am associate director was created. It was created precisely because there were a great many admissions into the program through a rather poor structure within the Criminal Division. Each litigative section in the Criminal Division is divided into sections by type of violation: organized crime, narcotics, general crimes and so on. Each litigative section made its own recommendations with respect to the admission of individuals into the program. Therefore, there was no uniformity in application. Our office was created as a result of a study by the Deputy Attorney General's Office to raise and apply higher admission standards; and Mr. Cassel, for precisely the reasons the police officer stated, would not have been admitted to this program. It was a very insignificant postal robbery. He did supply one piece of information that was significant, and that was the attempted murder or intended murder of a Milwaukee police officer, but that was not the basis of the application of the assistant U.S. attorney.

Over the past 2½ years significant changes have occcurred and perhaps you would like me to discuss that.

Senator COCHRAN. Please do. I think that would be very helpful to our hearing.

Mr. SHUR. I am verbose, Senator, and anytime you choose to, tell me——

Senator COCHRAN. That's all right.

SIGNIFICANT WITNESS IN SIGNIFICANT CASE

Mr. SHUR. Back prior to 2½ years ago, uniformity in admission procedures wasn't there. What we require now is that an individual to be admitted to the witness program must be testifying in a significant criminal prosecution—organized criminal prosecution. That eliminates a small matter like Mr. McCabe's case. It would include cases like the Dixie Mafia, Hell's Angels, or Cosa Nostra, to very organized bank robbers; and it is curious that we are concerned with very organized bank robbers and yet it was a bank robber that committed the most heinous crime that I've seen since I've been in this business a period of more than 20 years.

We require now not only that it be a significant witness in a significant case but that that be attested to personally by the U.S. attorney. It used to be an assistant U.S. attorney would write to the litigative section. We require that the headquarters of the Federal investigative agency endorse the request for protection and tell us why does he or she need protection; what is the significance of this organization; what is the significance of the defendant or the witness in that case. That was not required before. The field office would write in, and what you'd have was an investigative agent and an assistant U.S. attorney who were working in tandem investigating a case, albeit with all the loyalty we desire, getting all caught up in their case and perhaps being a little bit too close to give us independent judgment. We now require a headquarters assessment.

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MANAGEABILITY OF WITNESS

We then go back and we get a litigative section assessment, which was done before but it was not as carefully reviewed as it is now. We ask the U.S. Marshals Service to go out and conduct a preliminary interview of the witness so they can come back and advise us what their views are with respect to this witness. Does he appear to be manageable? Does he appear to really desire the witness program? And on occasion Mr. Safir and I will disagree as to whether or not that witness is manageable. In addition to that the marshals have added the ability, and indeed have entered into a contract with a psychologist, which Mr. Safir may describe, which gives us the benefit of a personality assessment where indicated.

We have tightened up considerably along the way so that the admissions into the witness program have fallen from almost 500 in 1 year to about 190 witnesses last year that were not prisoners and about 60 to 70 that were prisoners and remained in prison.

Now, that would be, I guess, an overall statement of how we go about functioning.

STATEMENT OF HOWARD SAFIR, ASSISTANT DIRECTOR FOR OPERATIONS, U.S. MARSHALS SERVICE

PREPARED STATEMENT

Senator COCHRAN. Thank you very much, Mr. Shur. We'll now hear from Howard Safir, Assistant Director for Operations of the U.S. Marshals Service. We appreciate the statement which you provided to the committee. It'll be made a part of the record in full and I would encourage you to make summary comments or give us the highlights of the statement at this time.

[The statement follows:]

STATEMENT OF HOWARD SAFIR

Mr. Chairman, I appreciate this opportunity to appear before you today to testify about the Witness Security Program, as it is administered by the United States Marshals Service.

It is a program of great value and necessity to law enforcement's effort against organized crime. Senator Nunn's Permanent Subcommittee on Investigations concluded in its final report of December 1981, the Witness Security Program is "one of law enforcement's most effective tools in the attempt to control and immobilize organized crime." Senator Nunn added that "so essential has the security program become, in fact, that it is difficult to imagine Federal law enforcement without it."

To date, the Marshals Service has successfully protected almost 4,000 witnesses and their families against the most violent of physical reprisals from organized criminal elements. As an aid to prosecutorial efforts in Mississippi, the Marshals Service has protected and relocated six (6) witnesses and their dependents. These individuals have given information and testimony in support of federal prosecutions involving public corruption, extortion, theft, prostitution and a state prosecution for capital murder. The defendant in this state murder case received a life sentence for his murder of a 17 year old boy.

It is, however, a very difficult Program to administer. The majority of those individuals who become witnesses do have extensive criminal backgrounds and limited marketable job skills. Most of the Program's participants -- between 95 and 97 percent -- have resorted to illegal activities at some point in their past. A recent survey of the 1,174 individuals having entered the Program since October 1978 indicated, however, that fewer than 17 percent had been arrested since their entry into the Program. This recidivism rate is substantially lower than the national average. However, it is a fact that witnesses do commit criminal acts after relocation. It is also a fact that all witnesses are free as adjudicated by the courts and would be out in society whether in the Witness Security Program or not. We have set up a mechanism to monitor the activities of the witnesses and if arrested, we are notified by the FBI when a request is made by a State or local law enforcement agency under a witness' new name. I also wish to point out it is our policy to fully cooperate with State and local law enforcement in any legitimate criminal investigation. Our only obligation to a witness in this circumstance is to advise the local authorities of his need for special protection when incarcerated.

I feel it might be helpful at this point to outline the procedures by which an individual is authorized protection under the Witness Security Program. As an investigation progresses, the investigative agents and the prosecutor can usually determine if protection and relocation will be ultimately necessary for an

informant. Once this determination is made, the prosecutor makes application to the Office of Enforcement Operations (OEO), Criminal Division. In this application, the prosecutor details the prosecutorial significance of the case and the necessity of the witness' testimony. Concurrently, reports are submitted by the investigating agency's headquarters to OEO. These reports substantiate again the significance of the investigation and the threat to the informant should his/her role become known to the targets through subsequent testimony.

At this point, the Marshals Service is asked to interview the prospective witness and explain the parameters of the Witness Security Program. During this "Preliminary Interview" conducted by an experienced Witness Security Inspector, the prospective witness provides somewhat detailed background information which is verified through the investigative agency and prosecutor. On the basis of this data, the field Inspector makes a recommendation to our headquarters relative to the individual's suitability for the Program and ability to abide by the guidelines of the Program. This recommendation is reviewed at Headquarters and a final agency recommendation is made to OEO for consideration in addition to the prosecutorial and investigative reports. It is the function of this Service to provide the Department of Justice with all information relative to a prospective witness. However, it is the Department's decision after a balance of the significance of the case, the danger to the witness and all other factors, whether or not the witness is admitted into the Program. While the Marshals Service can recommend against someone's inclusion in the Program, the Service cannot refuse an individual protection once he is authorized.

While the Marshals Service is a law enforcement agency with full powers of arrest, the relationship between the Service and the protected witness is not custodial in nature. The Marshals Service cannot revoke a Program participant's parole or probation. The Service has, however, worked very closely with the United States Probation office since 1978 and with the United States Parole Commission since 1981, to ensure that all Program participants requiring active federal supervision, are supervised by the appropriate agency.

Witness Security Inspectors receive specialized training to alert them to the outward signs of stress and possible anti-social behavior. Nevertheless, these knowledgeable and experienced law enforcement officers are not trained psychologists. The Marshals Service has recently contracted with a team of vocational assessment psychologists who bring with them extensive experience in counselling individuals who have had difficulty in adjusting to new surroundings. It is hoped that these professional counsellors can assist the Service in recognizing potentially problem cases early on and thus enable the Service to offer the protected witness assistance.

Beginning this past May, all principals entering the Program are given vocational inventories which provide guidance to the field Inspector in locating suitable employment for the witness. Additionally, the result of those questionnaires can and have revealed inconsistencies in temperament and values. In those cases, additional and more in-depth counselling and assessment are provided. All individuals released from prison who are authorized full Program services are interviewed by the psychologists. It is hoped that this individualized assessment will not only assist the witness in assimilating in the new community, but also point out any potential anti-social or deviant behavior.

Participation in the Witness Security Program does not obviate an individual's legal responsibility nor does it allow him to live outside the law without repercussion. It is both the policy and the practice of the Marshals Service to cooperate fully with any legitimate law enforcement investigation. Neither the Marshals Service nor the Department of Justice will shield a protected witness from his legal obligations.

As I stated earlier, the Witness Security Program is of immense value to federal, state and local prosecutors in ensuring that witnesses can be made available and testify without fear of danger in organized crime and narcotics trafficking cases. But it would be naive to think that some witnesses in the Program are not a potential danger to the community in which they are relocated. But this danger existed before their participation in the Program. The Program at least monitors, to some degree, their activities. There are more than 3,800 witnesses and their families relocated throughout the United States. Based on our recidivism rate, it appears that the Program has some rehabilitative effect. Do we need to work harder to attempt to prevent the type of tragedy we are concerned with here? Of course we do and the U.S. Marshals Service will continue to work with probation and parole authorities for the closest supervision possible. I believe that the situation we are concerned with here today could have occurred whether the individual was in the Witness Security Program or not. This Program has been reviewed and analyzed almost every year of its existence. Although replete with problems because of the nature of its participants and the trauma involved, each review has concluded that its one of the most valuable tools available to law enforcement. I would be happy to answer any questions at this time.

CRIMINAL ACTIVITY OF WITNESSES

Senator COCHRAN. Continue please.

Mr. SAFIR. Thank you, Senator. I appreciate the opportunity to be here today. As Mr. Shur said, this is an incredibly difficult program to manage. The variables involved in the program are totally human. All of our clients have almost totally criminal backgrounds. About 97 percent of the people who come into the witness program have some criminal activity in their background and it runs the full range.

SUPERVISION AND PROTECTION SERVICE

One thing I think is important to point out is that the Service has no complusion over any of its witnesses from a legal standpoint, and that is that all of our witnesses have been adjudicated by the court to be entitled to be outside of an institution; and as such, we do not supervise witnesses. There was a lot of talk before when these officers testified that the witnesses in fact did not get close supervision. That's true because the U.S. Marshals Service does not supervise protected witnesses. We provide protective services; we provide documentation; we provide employment services; we provide a great many services to assist the witness in readjusting to a new location, hopefully becoming an honest, productive member of his new community. The fact is that we do not supervise nor can supervise. We do, in cases where witnesses are on Federal parole or probation, work with the U.S. Probation Department in seeing that they are supervised by a probation officer in their relocation area. Save that, we cannot compel the witnesses to do anything.

GOAL

I also want to point out that about 4,000 witnesses have come into the program; and as Mr. Shur said, about 140 or 17 percent of the last 1,178 have committed crimes, which is a fairly low recidivism rate. Certainly not acceptable and certainly not what we'd like to see, but considerably lower based on the population and the criminal backgrounds. So it appears that in many cases, although unfortunately not the ones we talked about out here, we do have a rehabilitative effect. Our goal is to see that the witness adjusts to a new environment and that he becomes a productive member of the new community. We do not shield witnesses from criminal activity.

COOPERATION BETWEEN AGENCIES

When we become aware of a legitimate investigation by a State or a local law enforcement agency, we assist that agency, and we have a procedure to do that. The local officers before mentioned that the Federal Bureau of Investigation had provided them with information and had been cooperative in a number of these cases. Well, the procedure that we have is that when State and local law enforcements inquire of the Federal Bureau Investigation in the witness' new name, that record is cross-indexed with the witness' original name. That information is then made available to us and we tell the Federal Bureau of Investigation to provide the informa-

tion to State and local law enforcement. The only obligation that we have to that witness once he is arrested is to see that he is put in safe confinement and that if the State cannot put him in safe confinement, to offer Federal confinement for him.

One of the things that we've tried to do in the last year and we have brought to fruition more recently is to screen the witnesss much closer. We have, as Mr. Shur commented, entered into a contract with a group of psychologists whose prior expertise has been working with problem relocations, and we do screen all of our witnesses by a standardized battery of both vocational and psychological tests that we provide to give us an idea of how to get them better employed so they can be productive and honest in their communities. Also, if there are any indications of continued antisocial behavior to make that available to the Department so that they can make a judgment based on all the information available.

I believe that summarizes my statement.

Senator COCHRAN. Thank you very much, Mr. Safir. We had requested information from the Department, some of which we received, some of which we have not received.

RECIDIVISM

You made a statement, Mr. Shur, about recidivism and the fact that you are striving for a goal of zero. I understand that there has been a study made recently on recidivism, and I wonder if you can tell us what that study has shown. Does it indicate any changes that can be made in the administration of the program to help improve those 17 percent repeat-offense numbers?

Mr. SHUR. There were two studies that were done, Senator. One was done some years ago as the result of an internal departmental review of the entire program. Curiously, that study revealed the 17-percent recidivism rate. The Marshals Service has conducted its recent study, which Mr. Safir alluded to, which found again the same number.

In response to your question, what can be done, I think what is needed is that there be more people to provide the assistance that the witnesses are in need of. You mentioned earlier an instance where a witness said he received no help in employment. There needs to be people to supply that assistance. It's been my experience that the marshals have been working extraordinarily hard, and perhaps have reached their limits on the number of witnesses that they can handle. Thus, we are tightening up the admission policy ourselves and I've appended to my statement the new application form for U.S. attorneys to use in asking us to admit witnesses to the program, but I think more personal attention by the U.S. attorney will be most helpful.

SUPERVISION OF PAROLEES

I think a very significant event occurred 6 or 8 months ago which will be helpful. It has taken us some years to get the parole board to rescind the regulation they previously passed, which said they would not supervise relocated individuals on parole; and the parole board several months ago, after at least three of our pleas, did make that change, and I think now the introduction of the

parole officer to the person being released from prison will certainly provide significant incentive for that individual to be law abiding. With respect to the study itself, I think Mr. Safir could describe the recent study and the types of crimes.

Senator COCHRAN. Mr. Safir, could you give us the benefit of your findings in the study that was made?

Mr. SAFIR. What we did, Senator, was to look at the last 1,174 witnesses who came into the program and that was since fiscal year 1979. There were 140 arrests, which I do not have a breakdown by crime but I can tell you that they covered the broad spectrum from misdemeanors to very serious crimes. Out of the 140 arrests, 21 were arrested twice; 5 three times and 3 five times; and basically the purpose of our study was to look at what the rate was and to see if the relocation process had put witnesses in an area where they were more susceptible to crime. It's still being looked at as far as that and we do not have a result of that.

EMPLOYMENT ASSISTANCE

Senator COCHRAN. We heard one witness describe how a marshal was trying to help get a job for a relocated witness and accompanied the witness to an employer, actually helping him fill out the application for employment. Is this a procedure now that is followed by the Marshals Service? Is this the way you do business?

Mr. SAFIR. Generally our procedures are that we have employment contacts throughout the United States. We have about 150 companies that we use on a national level, and then each individual witness security inspector has local contacts. Normally what we will do is provide a sanitized résumé for a witness, which the witness security inspector will go with the witness to the employment opportunity and deal with this contact at that employer. The Department's regulations prohibit us from providing to a witness false employment background, so that is the only method that is available to us at this time.

Senator COCHRAN. What about the statement that I read into the record that was conveyed to us by someone who identified himself as being a relocated witness who said that he didn't receive any assistance in finding a job and basically was going out of the program because it really wasn't doing him any good?

Mr. SAFIR. Let me preface that by saying that employment is a real problem for us. As we are all aware, the employment situation in the country is not the best for people who do not have significant felony histories, and it is our policy to provide all employers with the witness' criminal background. Now, when we go to an employer we tell them not the exact crime but the nature of the crime that the witness has been involved in. It makes it very difficult to get employment for many witnesses. However, it is the policy of the Service that we will not stop funding a witness until we have provided him with employment or a reasonable job opportunity which he has refused.

Senator COCHRAN. So these employers that you have contacts with around the Nation, are they aware that the person that they're about to employ may be a dangerous criminal? Are they advised of this?

Mr. SAFIR. They are advised—if a man committed a number of bank robberies, they would be advised that he committed a number of bank robberies or whatever other crime as long as it was not so specific as to identify that person.

ACCEPTANCE OF PERSONS INTO RELOCATED WITNESS PROGRAM

Senator COCHRAN. In the cases that we had described this morning, Marion Albert Pruett, Cassel, and Simms in Mississippi, how do you explain how a person who has a disposition toward violent crime can be accepted into the program, whether he was a witness in an organized criminal case or one that was highly significant? Have the changes that have been made over the past 2½ years been sufficient in your judgment, Mr. Shur, to prevent that kind of person from being accepted into the program?

Mr. SHUR. I don't think so. I think so long as we're talking about the very organized types of crime, in the nature of dealing with it, we need witnesses who can testify; and no matter how sophisticated we may become in investigating criminal activity, be it by the use of wiretapping or other devices, almost all trials break down to an individual who says, "I saw him do that," or "I was with him when he did that." Organized crime being different than street crime, or organized criminal activity, you don't find people who are neighbors who happen to see an event; so we need people who are inside the organization to come forward. I think it's important to point out the results of these witnesses who come in like Pruett. If I may, I would like to provide you with three numbers of those individuals indicted and convicted in 1979, 1980 and 1981. We had 1,425 individuals in 1979 that were either indicted or convicted as a result of 489 witnesses. In 1980, as a result of 464 witnesses we had 1,180 people; and in 1981 we had 995 people that were indicted or convicted as a result of 346 witnesses. Those numbers are smaller only because all of the cases have not gone to trial.

In sum we're talking about thousands of people who have been indicted or convicted based upon hundreds of witnesses. When we use an individual like Mr. Pruett in a case, what we know at that time is that there is a group that is committing crime, more like the Zambito murder where Mr. Zambito was furnishing information about a narcotics organization. We know that organization is out there in the community; we may know who the members are that are committing crimes; we believe that we can convict them and incarcerate them with the testimony of people like Mr. Zambito. What we look at is the organization on one side, we look at Mr. Zambito on the other side, and sometimes we get very disgusted at that choice; but we believe that the community is better by having the large narcotics organization removed and Mr. Zambito dealt with by the courts. Now, entering the program does not give the witness immunity. What will be offered to him is that if he's in prison as with Mr. Pruett, the parole board will be told if he's cooperated. It may or may not mean anything to the parole board. In Mr. Simms' case, I believe it did not mean anything to the parole board for quite some time. The witness is not told he's going out on the street the next day, so his ability to walk free is determined either by the parole board or by a judge, not by those of us in the

witness program. So we think the community is served well in the long run, indeed it may be served well in the short run.

Now, when individuals like Pruett are released from prison, and Pruett would have been released whether he was in the witness program or not, the only issue was, would it be 11 months later or not. I think he has a better chance of not causing crime by being assisted by the Marshals Service, and I think the 17 percent recidivism rate would tend to show that. I think Mr. Pruett shows that we're always going to be stuck with people that are going to abuse the assistance given and that there are some people we just are incapable of dealing with except by incarcerating them.

EFFECTS OF PROTECTION TO RELOCATION WITNESSES

Senator COCHRAN. Do you think that offering a person the protection of the Marshals Service, relocation, documentation, job assistance, and financial assistance may give someone who is disposed to commit crime encouragement that he may can get away with the commission of crime and hide behind the Marshals Service? We heard the witness who testified about the conduct of the criminal in Pascagoula, fully cooperating, even taking off and giving them the tennis shoes that he walked through the blood with, which is surprising that a person would do that, feeling, apparently, that he would be protected by the Marshals Service.

Mr. SHUR. Well, when the witnesses join the program, when they enter the program, they are told they're not going to be protected; and your statement about giving them encouragement to commit crime, I think we certainly do what we can to discourage that. If I may use the same word, I think we have encouraged 83 percent of the people who have committed crime in the past not to commit crime again by supplying them with the assistance that you described.

COOPERATION BETWEEN MARSHALS SERVICE AND LAW ENFORCEMENT OFFICERS

Senator COCHRAN. What about the suggestion that local law enforcement officials are put under an unnecessary burden in trying to find out about the backbground of a person who has been arrested and then found to be under the protection of the Marshals Service. It seems to me that an inordinate amount of difficulty was encouraged identifying even the person who was arrested and suspected of the commission offense. When they contacted the Marshals Service, they felt they were getting the runaround. They couldn't get a straight answer out of anybody. What about that? What could be done about that, Mr. Safir?

Mr. SAFIR. Well first, Senator, our policy is to cooperate with law enforcement and the snafu that was described this morning is unfortunate if in fact it did occur because that's not our policy.

Senator COCHRAN. Do you know whether it occurred or not?

Mr. SAFIR. I do not in this specific case.

Senator COCHRAN. Do you doubt that it occurred?

Mr. SAFIR. I do not. When you're dealing in these numbers it is possible. The policy is for it not to happen. We recently met with the Assistant Directors of the Federal Bureau of Investigation to

make sure that not only will the information be provided on a timely basis, but we provided them with some additional identifiers.

Senator COCHRAN. Who decides whether or not to provide the information? Is that your job? If not, whose is it?

Mr. SAFIR. It's the chief of the witness security program, Phillip Tucker, who does work for me.

Senator COCHRAN. So you're ultimately responsible for the administration of this program; are you not?

Mr. SAFIR. That's correct, sir; and it is our policy in any legitimate criminal investigation to provide that information and we have refused to supply that information not one time since I've been over this program.

Senator COCHRAN. How long have you been serving in the capacity that you serve in now?

Mr. SAFIR. Since June of 1978.

WITNESS SECURITY PROGRAM

Senator COCHRAN. If you're suggesting that it's the policy to provide the requested information and that it's never been violated since you've been responsible for the program, how can you explain the failure to obtain cooperation that the officials here in Mississippi have experienced?

Mr. SAFIR. I think that when I say we cooperate, it is a fact, Senator, that it is not the normal procedure in which a law enforcement officer would go about getting information on a protected witness; and since the witness security program is a security program, we have to be assured that the information that is being requested is being requested from a legitimate source. Now, once that determination is made, the information is provided. It is cumbersome and it does take somewhat longer.

Senator COCHRAN. Well, the official from the police department of Natchez testified they still haven't received information relating to past convictions or criminal activity that would have assisted in indicting and prosecuting the person as a habitual offender.

Mr. SAFIR. I'm unaware of that, Senator, and I'll certainly look into it.

Senator COCHRAN. Well, you're aware of it now. I don't understand how they can submit requests, even have to resort to contacting the local special agent of the Federal Bureau of Investigation, to try to get information. I understand that we have to protect the witnesses, that's what the program is all about, but there has to be some procedure and it has to be available to local law enforcement officials so they can follow that procedure. Now, you may have a policy in your office, but if it's not well known by local law enforcement officials, then they don't have someplace to go for the information. And if you won't tell them when they call because they can't prove that they're a legitimate source, then they're really up against it.

LETTER OF UNDERSTANDING BETWEEN FEDERAL BUREAU OF INVESTIGATION AND MARSHALS SERVICE

Mr. SHUR. Senator, there's a letter of understanding between the Director of the Federal Bureau of Investigation and the Director of the Marshals Service written just a short while ago, and in fact the meeting occurred as a result of Mr. Pruett and the check that was made in New Mexico which one of the police officers alluded to where incorrect information was sent back to the New Mexico authorities. That memorandum provides for rapid return of information. I think all of us at the meeting realized that local law enforcement has to have this information and has to have it rapidly, and the procedure as set up provides for off duty or after hours assistance by the Federal Bureau of Investigation and the Marshals Service so if an inquiry is made by local law enforcement and they need an answer within 4 or 5 hours, they should be able to get it back within that time frame.

If I may mention that New Mexico situation, which I think has gotten a bit out of proportion throughout the press and the country, for one minute. The Federal Bureau of Investigation Properly responded in all instances where Pruett's prints were submitted except in New Mexico. With respect to New Mexico, the reason the New Mexico police officer did not receive the correct reply was simply an error in researching fingerprints by the fingerprint clerk. It was no effort on the part of anybody, including that clerk, to mislead the New Mexico Police Department. The prints, I think, were slightly smudged and he misread the prints.

CROSS IDENTIFICATION

Senator COCHRAN. What about cross-identification? My understanding is that no mechanism exists to bring together a witness' real name and the Government-provided name in the National Crime Information Center on-line identification system. In other words, if a protected witness, Jack Smith, but his real name was John Doe, was arrested in his relocated area and local officials searched the system under the name Jack Smith, that crimes that were committed by him under his real name before entering the program would not be listed. There was a recent article in the Denver Post that discussed several examples of this problem. In fact, in two of the examples this defect possibly contributed to murders in several States. I don't know whether you're familiar with that article and I don't have a copy of it, as far as I know; that I can hand you; but is that an accurate description of now the National Crime Information Center system operates?

Mr. SAFIR. The way the system is set up now, the witness' new name is flagged and is cross-indexed with his old name. However, the release is not immediate as it normally would be, and the meeting that Mr. Shur described recently was to speed up the time in which we would respond from those queries from State and local law enforcement, hopefully no more than 24 hours after we get the initial query, which is not much longer than it takes under normal queries from State and local law enforcement. Senator, I think it's important to understand that when a State and local police officer arrests an individual under his new name, he doesn't know he has

a protected witness until he makes the query, and then he's contacted by the Federal Bureau of Investigation after the arrest. That is cumbersome, but it's the only way we have of protecting the witness' identity and not distributing that identity throughout the country; but we do provide it once we are made aware of the inquiry.

RED FLAG SYSTEM

Senator COCHRAN. What about the red flag system that was described? If a local law enforcement agent has arrested a witness and is attempting to get fingerprint verification, does the fact that there is a red flag by that fingerprint indicate that there shouldn't be a release of information in response to that inquiry?

Mr. SAFIR. It does indicate there should not be an immediate release, that's correct.

Senator COCHRAN. OK. Now, by immediate, what does that mean? Do you just remain mute?

Mr. SAFIR. No.

Senator COCHRAN. What do you do? What do you tell them?

Mr. SAFIR. The system that is set up, if the Federal Bureau of Investigation notifies our office of the arrest—and to give you an example, if it's a misdemeanor crime in which it is clear that the witness will be released immediately on bond, we probably will not tell local law enforcement because to breach the witness' security and have to relocate him again is an enormous expense; but on all felony arrests we certainly do. And what we do is we tell the Federal Bureau of Investigation to release it and the Federal Bureau of Investigation agent hand carries a copy of the witness' arrest sheet to an official in that department and advises him that they do have a protected witness and what his true name is.

Senator COCHRAN. If, for instance, it's a misdemeanor, what do you tell them? That you don't have a record? That you don't know who he is, or do you give them——

Mr. SAFIR. Well, we don't deal directly with State and local people at all. It's all done through the Federal Bureau of Investigation and eventually if there's no further inquiry, the record will not be released.

PRIOR CRIMINAL ACTIVITY

Senator COCHRAN. In the case of the situation in Natchez where information is requested about prior criminal activity that can be used by a judge in deciding on the appropriateness of a sentence or that can be used by a prosecutor in deciding whether to try to get an indictment for an habitual offender type crime, why is that information not made available in a timely fashion?

Mr. SAFIR. We will make that information available in a timely fashion when it's requested, and I can recall a number of cases recently in which there were some major crimes committed in which we, in fact, sent inspectors to the police department requesting information to assist them onsite, from other cities with that information.

Senator COCHRAN. Now, it's your job to provide that kind of information, but it's the Federal Bureau of Investigation's job to provide information on identity. Is that what you're telling us?

Mr. SAFIR. The Federal Bureau of Investigation would provide criminal background information that's contained in the witness' criminal record. If a State and local prosecutor wanted additional information which we were in possession of, after conferring with Mr. Shur, we would send someone to provide that assistance, and we have assisted many State and local prosecutors in prosecuting witnesses of the program for crime.

ROLES OF AGENCIES

Senator COCHRAN. It's fairly difficult and complex, I know, to administer a program that involves so many different aspects of our law enforcement system at the Federal level. The Federal Bureau of Investigation has a role to play; the Marshals Service has a role; the Criminal Division of the Department of Justice has a role. Do you think with the changes that have been made, the reorganization and the identification of your office as the entity that's ultimately responsible for this program, that we have the organization in place that can make this program function effectively?

Mr. SHUR. I think so, Senator. Of course, that could be a self-serving answer, but I've been with this program since its inception. I think it is one that will always need improvement and always need attention like this. It's very important. I think it is running better now than it has run before. You've raised issues here that I think need to be addressed. We have to go back and find out why that local law enforcement agency did not receive information faster. My office too receives copies of these criminal records and in Mr. Pruett's case our response was—as soon as we learned of his involvement—for Ms. Hutchinson to get on the phone and call the Federal parole people and suggest that they may want to issue a warrant for his arrest. I think the mechanism and the understandings for coordination are now in place. I think there will be defects that occur as a result of errors by individual specialists be it, assistant U.S. attorneys or marshals or agents, and I think those have to be addressed on a case by case basis; and certainly with hearings like this they all begin to realize this is very, very serious business.

REVISING GUIDELINES FOR ADMISSIONS TO WITNESS PROGRAM

Senator COCHRAN. Well, it is indeed; and the lives of innocent people who are confronted with dangerous relocated witnesses is serious business as well. It's a valuable program. I'm convinced there is a place for it and that we need to continue it; but I'm also convinced that there need to be procedures developed to tighten admission, screening, and possibly superivision of the witness after he is out on the street in the relocated area with a new identity and basically false information for those with whom he's going to be in day to day contact. We heard described how one can be swindled, obtain a judgment and be unable to collect it. The person can't be found because he's still being protected. I know somebody has to make a decision about balancing these interests, the interest in being able to secure the successful prosecution of other criminals

and the interest of protecting the rights of innocent citizens who've been wronged by these witnesses. What about the cases that we cited among the creditors, the bank out in Nebraska and the lady from Huntsville, Alabama, who has a judgment for $150,000. Basically, she's out because of a swindle by a relocated witness. What can be done about those instances?

Mr. SHUR. Under previous administrations we were prohibited from doing much more than cajoling and pleading and perhaps bordering on threatening our relocated witnesses to honor their debts. Now we are authorized to take each case on its merits and evaluate whether or not that witness should be told we might surrender his address. There has been and very recently there was civil litigation involving child custody case where the witnesses have been or are about to be advised that we're going to notify the State judge where he or she lives, and the State judge may well release that person's address. If there's any danger to that individual as a result, it may be incumbent upon the Marshals Service to relocate the person again. I think that would serve both interests. You would not do that in a $400 or $500 lawsuit, and it's one of those things which we regret because that $400 or $500 may be very meaningful to that individual; but the one thing we share with your local law enforcement people is an oath to fight crime, and we do have to strike, sometimes, a very difficult balance.

Senator COCHRAN. What about the new guidelines for admission into the program, the various procedure that you have in place that may not have been in place when Marion Albert Pruett was admitted into the program? The psychiatric screening, for instance, has that been in place long enough for you to evaluate the effectiveness of it?

Mr. SHUR. Not really. We've had a couple of individuals that have been examined where it was helpful. In one instance the psychologist suggested that the person needed close screening, close watching, when he was released from the institution that he was in. I think it will take some time for us to really be able to evaluate the new program.

SUPERVISION OF WITNESSES

Senator COCHRAN. Mr. Safir says that they don't supervise and cannot supervise these witnesses. If the Marshals Service doesn't do it, who will do it?

Mr. SHUR. The only people that can be supervised, Senator, would be those who are on parole or probation. The other people have, I suppose, a constitutional right to go about the society as they see fit. We certainly hope they're not committing crime doing that. those on parole or probation must report to their parole and probation officers, and those are the people who are responsible for actual superivison of a parolee.

ADMISSIONS TO WITNESS PROGRAM

Senator COCHRAN. When you mentioned that the new guidelines include a headquarters assessment of the recommendation by a U.S. attorney that a person be admitted into the program, does

that mean that you actually make the final decision on who ends up being admitted into the program and who is not?

Mr. SHUR. Yes, I do make the final decision on who is admitted to the program, although there's a mechanism for appeal in the event that Mr. Safir and I disagree. In that event, it would be appealed to the Associate Attorney General who would make the decision. I wasn't referring previously to headquarters assessments of U.S. attorneys, which my office does. I meant then that it was the investigative agent who must submit his report of the situation to his headquarters, and they in turn send to me their headquarters view as to whether or not they agree with their own agent.

Senator COCHRAN. So you first get a recommendation from the Marshals Service, from Mr. Safir?

Mr. SHUR. Well, first I will receive a request for witness security from the U.S. attorney. We then ask Mr Safir, to send a marshal out and conduct a preliminary interview of that witness. At the same time the investigative agency is sending to us their threat assessment and at the same time we have the litigative section in the Criminal Division telling us whether or not they think that's an important case. We get all of that together and then we do our evaluation as to who should or should not be admitted to the program.

PARTICIPATION IN WITNESS PROGRAM

Senator COCHRAN. You have mentioned the drop in participation in the program last year. That's a departure, isn't it, from the trend that had been going on? Hadn't there been a dramatic increase in the relocation of witnesses over the last 10 years?

Mr. SHUR. There was a sharp increase over the first 10 years. It got as high as 500 admissions in the mid 1970's from probably 20 or 25 in the first year. Now we're down considerably below 500. Our number of admissions for fiscal year 1981 was 260.

Senator COCHRAN. Could you estimate how many relocated witnesses are now on the streets in the country?

Mr. SHUR. Almost 4,000; and as best as we can tell, 17 percent have committed crime. The rest have not, the remaining 83 percent.

Senator COCHRAN. Didn't this program really get out of hand?

Mr. SHUR. I don't know that it got out of hand. It certainly grew too fast in the sense of its utility in the Criminal Division. From 1970 to 1975, suddenly there was this mechanism that prosecutors had to fight organized crime that they didn't have before; so there was that tremendous effort to use it. I got out of hand in the case of Mr. Cassel, in a case in which it never should have been used, and in that case, assistants were beginning to bend the program just a little bit too far; but to that assistant, that postal inspector, that was a very important case. I suppose we always want our investigators and assistants to feel that way. As we review requests for admissions now, we would say no, to the Cassel case, that person would not be admitted into the program today. I might add this, if Mr. Cassel were not admitted into the program, I don't think there's any reason to believe that he would not have committed crime again. I don't think the witness program encourages

people to commit crime, but I think it discourages them. We should not presume that by the nature of coming in to the witness security program and receiving this additional assistance people are going to commit crimes they otherwise would not have committed.

Senator COCHRAN. Of course, this is the Committee on Appropriations and we are confronted with some very tough choices this next fiscal year trying to restrain the growth of spending in many programs. Is the drop-off in participation of this program going to enable us to reduce the appropriation form the level of last year?

Mr. SAFIR. I would answer that, Senator. One of the things that I think these budget facts have failed to take into consideration in providing funding for this program over the years has been just what you've described as the intake process. One of the things that is usually not taken into consideration is that witnesses are never terminated from protective service under the program. They may be terminated from the funding, but protective services for witnesses, mail forwarding services, documentation services, these continue for the rest of their lives as long as they continue not to commit criminal acts in their relocation area; so actually what we're doing is each year we build a backlog of additional witnesses who may require services from time to time by the witness security program. I don't think that anything less than what was submitted in the President's budget would enable us to carry out effectively the program.

BUDGET REQUEST FOR WITNESS PROGRAM

Senator COCHRAN. As I remember of the $17 million plus requested, $10 million will be used in this program. That's not the total appropriation for the U.S. Marshals Service, though, is it?

Mr. SAFIR. It is not.

Senator COCHRAN. OK. Do you have that at all, or do you recall what percentage of the total appropriation the witness protection program represents?

Mr. SAFIR. It is about 20 percent or 21 or 22 percent, I believe, Senator.

Senator COCHRAN. Well, I'm one who thinks that the U.S. Marshals Service hasn't been getting enough funding support. I really believe that. I think you can look at the courts around the country and see the increased numbers of judges and court clerks to assist judges. I don't quarrel with the need for additional personnel. They've got increased case loads. Here in the southern district of Mississippi you have the most active, overburdened court in the country. Per judge filings of cases are higher than anywhere in the country; so I don't quarrel with the need for funding to support the administration of justice; but one must consider the allocation of resources to the suport personnel. The U.S. Marshals Service is transporting prisoners, safeguarding witnesses while in the court area, and doing all the other things that have to be done to fulfill their duties, and those numbers are going down. We have fewer people in the U.S. Marshals Service today than some years ago while all these other numbers are increasing, so I sympathize with the fact that you've got a problem of adequate resources and manpower. Can we really afford to have the U.S. Marshals Service bur-

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dened with all of these other responsibilities like supervising, monitoring, documenting and providing services for people under a witness security program? Perhaps there should be some burden-sharing by the Department. I don't know. We discussed this recidivism report. It would be helpful for us to have a copy of it when it's completed. Will there be any difficulty in giving us a copy of that, Mr. Safir?

Mr. SAFIR. We will be able to give you the results. The actual worksheets would have to be sanitized.

Senator COCHRAN. We don't want everybody's name.

Mr. SAFIR. We would provide that.

Senator COCHRAN. Mr. Shur, you have one in the mill, too, haven't you?

Mr. SHUR. No, that's the same report that we were talking about. I mentioned one that was a sampling that was done earlier. We can get you a copy of the end result of that. I would not be able to give you the worksheets since I do not know where they are located.

COMBATING ORGANIZED CRIME

Senator COCHRAN. I have several other questions about the program and the administration of it that I did not touch on during these oral questions. I would like, if I could, to submit written questions to each of you and have you answer them in writing, and we will make those questions and answers a part of the record at this point.

I really do appreciate the cooperation that we've received from your offices and from you individually in our investigation of the witness security program. I think we all share a concern about having you function effectively and with regard for the rights, well being and safety of innocent citizens around the country who may be dealing with relocated witnesses either in an employment situation or as a creditor, and certainly as a person who might be subjected to violence. The statements have identified some problems. I think we clearly need to address those, and the Congress needs to take a careful look at the guidelines that have been described to see how the program is being administered and if further changes need to be made. I think it's the responsibility of the Congress to appropriate sufficient resources to the program to insure the fulfillment of the mandate contained in the 1970 act.

It's certainly not this Senator's intention to gut the program or do away with it. I think we must maintain and enhance what may be an important tool to combat organized crime, but it can't be done at the expense of local communites and innocent citizens. We understand the need to protect the identities of witnesses whose lives are in jeopardy, but we can't put them above the law. In-depth screening and psychological testing, I think, has to be utilized to guard against the selection of those not suited for the program. Increased supervision of protected witnesses and better cooperation with State and local law enforcement officials should be explored to help assure that our citizens aren't victimized by those given protection under this program.

I want you to know that I will endeavor to continue this review of the program. The Subcommittee on Investigations of the Committee on Governmental Affairs in the Senate is reviewing the program, and we hope that these hearings will be helpful in improving what can be a most important tool in our crime control efforts.

CONCLUSION OF HEARING

This hearing is now concluded. I want to state that we will keep the record of this hearing open, and if we receive any further communication from persons who have information about the administration of the program or incidents involving relocated witnesses, we will make those a part of the record. At this time the subcommittee will be adjourned subject to the call of the Chairman. Thank you very much.

[Whereupon at 12:30 p.m., Tuesday, July 6, the hearing was concluded and the subcommittee was recessed to reconvene at the call of the Chair.]

MATERIAL SUBMITTED SUBSEQUENT TO HEARING

(CLERK'S NOTE.—By direction of the chairman, the following questions, references, correspondence, and statements were not presented at the hearing but were submitted to the subcommittee for inclusion in the record subsequent to the hearing.)

QUESTIONS ANSWERED BY THE CRIMINAL DIVISION

Criteria Used for Admitting Witnesses

Question: What is the criteria used for admitting a witness into the Program?

Answer: A witness may be authorized to participate in the Program if he is to testify as an essential witness in a specific case which is important in the administration of criminal justice and which has a connection to organized criminal activity, where, because of the testimony, there is a clear indication that the life of the witness is or will be in jeopardy. Relatives and associates of witnesses may be offered assistance if their lives are jeopardized by virtue of the witness' testimony.

Question: Describe the admission process; i.e. the flow of information supplied to the Department to admit a witness, the entities involved in reviewing that information and their roles, and who has authority to admit the witness.

Answer: The Director and Associate Director of the Office of Enforcement Operations, Criminal Division, United States Department of Justice, may authorize witnesses to enter the Program. The initial application to use the Program is submitted to the Office of Enforcement Operations by the prosecutor (United States Attorney, Strike Force attorney, local District Attorney, etc), whose office will be using the witness' testimony. The Office of Enforcement Operations has recently implemented the use of the Witness Security Program Application Form, which requires the prosecutor to submit very specific and detailed information about the significance of the case, the prospective defendants, the witness' testimony and the anticipated benefits of successful prosecution. The Office of Enforcement Operations forwards a copy of the prosecutor's application to the appropriate litigative section in the Criminal Division and asks for its views concerning the significance of the prospective defendants in light of their criminal activity, and the significance of the witness' testimony.

In addition, the investigative agency involved submits to its headquarters a report detailing the threat to the witness and describing the need to use the Program. Agency headquarters reviews this report and forwards it along

with the headquarters' recommendation, to the Office of Enforcement Operations. While these two independent reviews are being done, the United States Marshals Service is asked to interview the witness and the adult members of his/her household to ensure that the witness understands what the Program can and cannot do, and to identify what problems may arise in the relocation process. In addition, the witness is advised of what conduct is expected of him or her. United States Marshals Service headquarters forwards a copy of this preliminary interview report to the Office of Enforcement Operations along with its recommendations concerning the witness' suitability for the Program.

When this process is completed, the Office of Enforcement Operations reviews and considers all four reports (the prosecutor's request, the litigative section's assessment of the case, the agency's assessment of the danger, and the United States Marshals Service's assessment of the witness' suitability for the Program) before making its decision. If the investigative agency headquarters determines there is no threat to the witness, the prosecutor's request is denied. If the litigative section determines the case is not important, or that the witness' testimony is not essential, or that the evidence is not sufficient for conviction, the request is denied. If the United States Marshals Service determines that the witness is not a suitable candidate for the Program and the anticipated problems in relocation are insurmountable, the request is denied.

In cases involving witnesses who are or will be prisoners, the authorization is contingent upon the witness passing a polygraph examination administered to the witness by the Federal Bureau of Investigation. If the examiner determines that the witness is not being truthful, authorization for entry into the Program may be rescinded.

Resources Applied to Witness Security Program

Question: What is the level of federal resources (staff years and dollars) devoted by the Marshals Service and the Office of Enforcement Operations to the operation and management of the Program?

Answer: The Office of Enforcement Operation's FY 1982 budget allocates 17 workyears and approximately $629,600 to the Witness Security Program.

Reimbursement for State Cases

Question: Title V provides authority to admit witnesses into the Program who are involved in State cases on a reimbursable basis. Since reimbursement is optional under the law, how is the decision made on whether or not to require reimbursement?

Answer: Approximately 2 years ago, the Department began requiring reimbursement in all state cases. This became necessary when the Service began experiencing severe budgetary problems and was no longer able to provide services to state witnesses at its own expense. One exception was made in FY 1981 and one in FY 1982. The FY 1981 case was a request for employment assistance only and would have required little effort on the part of the United States Marshals Service. The FY 1982 case involved a witness who testified at a federal parole revocation hearing and there was therefore significant federal interest in the case.

Program Evaluation

Question: What is the Department's view about the value of this Program?

Answer: The Witness Security Program has sharply enhanced the federal government's ability to combat organized crime, public corruption, major narcotics organizations and other highly sophisticated and very dangerous criminal activity.

During the 1970's, the emphasis of federal law enforcement shifted to the pursuit of very dangerous criminal organizations, many of which are making millions of dollars each year from their criminal activities. As you are aware, these organizations are extremely difficult for law enforcement to infiltrate and thus the cooperation of insiders has become crucial to their successful prosecution. These criminal organizations have the resources necessary to protect themselves, including enforcers who maintain the internal integrity of the organization. Insiders who provide information about the organization's activities to law enforcement authorities know that they must face the consequences in the person of the enforcer should their cooperation become known. Their cooperation will certainly become known to the defendants through the course of the investigation and trial.

That the Witness Security Program has proved to be an effective tool for law enforcement is no longer questioned. The testimony of protected witnesses has resulted in many thousands of convictions of high ranking members of major organized crime groups. These convictions would not have been possible if the Witness Security Program had not been available to protect the government's witnesses. The more significant the case, the greater likelihood a relocated witness was involved.

Question: The Program was established to help the government's efforts to fight organized criminal activity. How does the Department measure its success in this area? In short, describe your efforts to evaluate the accomplishments of the Program and provide us with any routine reports (for fiscal year 1981) that monitor and capture Program results.

Answer: The Office of Enforcement Operations continuously monitors the results of a witness' cooperation. Reviews have been made for calendar years 1979, 1980, and 1981, which detail the activity in cases in which Program participants have cooperated.

In 1979, 1425 defendants were indicted or convicted by the testimony of 489 witnesses.

In 1980, 1180 defendants were indicted or convicted by the testimony of 464 witnesses.

In 1981, 995 defendants were indicted or convicted by the testimony of 346 witnesses.

The decline in the number of defendants indicted and convicted in 1980 and 1981 is a result of two factors: first, not all pending cases have been completed or reported to the Office of Enforcement Operations; and second, the very careful review procedure described earlier has resulted in a significant reduction in the number of witnesses authorized to enter the Program and, therefore, fewer cases using protected witnesses.

In April 1981, the Evaluation Staff of the Justice Management Division published a report concerning a proposed

information system for evaluating the effectiveness of the special investigative techniques, including the Witness Security Program, for which the Office of Enforcement Operations is responsible. A copy of the report is attached. The Office of Enforcement Operations has been unable to fully implement the system proposed by the Justice Management Division as a result of budgetary and manpower restrictions.

Reports to Department

Question: Could you supply us with all copies of quarterly reports to the Deputy Attorney General reflecting the results of relocated witness testimony?

Answer: These statistics are now compiled annually rather than quarterly. There are no quarterly reports available. Quarterly reports are anticipated when we are able to implement the procedures suggested by the Justice Management Division.

Question: Are any other reports to the Department concerning Program operations required or prepared?

Answer: The Office of Enforcement Operations prepares monthly, quarterly and annual statistical reports on the use of the Program by prosecutors (i.e., number of requests received, number approved, denied, etc). These reports are for the internal management use of the Office of Enforcement Operations.

Murders By Relocated Witness Marion Albert Pruett

Question: When and for what reason was Mr. Pruett admitted to the Witness Security Program? Please supply for the record material relating to the request for his admission (including threat analysis and interdepartmental recommendations made to Office of Enforcement Operations).

Answer: Pruett was authorized to enter the Witness Security Program as a federal prisoner on May 3, 1978, as a result of his cooperation with the Federal Bureau of Investigation in its investigation of the murder of William Rhett Zambito at the Federal Penitentiary in Atlanta, Georgia. Mr. Pruett was Zambito's cell mate and was a witness to the murder. This investigation was considered to be extremely important for two reasons: first, there had been a series of brutal murders of inmates at the Atlanta Penitentiary, which caused great concern in the Department, the Congress, and the public. Second. Mr. Zambito was cooperating with law enforcement in a very significant narcotics investigation and was murdered to prevent his further testimony. Mr. Pruett's cooperation and testimony in this case placed his life in grave danger.

He was admitted to the Witness Security Program and moved to a safe institution to prevent his suffering the same fate as Mr. Zambito.

The material relating to Mr. Pruett's admission to the Program has already been made available to the Subcommittee for review. We do not believe it is appropriate to make this material part of the record.

Question: What were the results of his testimony? Who got convicted, of what, and what were their sentences?

Answer: Mr. Pruett testified against Alan Benton, who was subsequently convicted of conspiracy to commit murder and sentenced to life imprisonment.

Question: For the record, please detail all services and/or contacts by date and purpose with Mr. Pruett after his admission to the Program?

Answer: The Office of Enforcement Operations had very little contact with Mr. Pruett. Our file reflects the following contacts, all initiated by Pruett:

1/30/79 Pruett called (from prison) and asked that his girlfriend be placed in the Program.

9/13/79 Pruett called (from prison) and advised that he would have a parole hearing on 9/25/79, and wanted to be relocated by the United States Marshals Service when he was paroled.

9/19/79 Pruett called (from prison) and again discussed relocation after his release.

10/3/79 Pruett called (from prison) and advised he had been granted a tentative release date of 11/15/79.

10/26/79 Pruett called (from prison) and advised his release date of 11/15/79 was firm.

Pruett was paroled on November 15, 1979 and relocated by the United States Marshals Service. The Office of Enforcement Operations has had no contact with him since 10/26/79.

Question: Information supplied to us shows Mr. Pruett was paroled from prison around the time he entered the Program.

Answer: This information is not correct. Mr. Pruett entered the Program on May 3, 1978. He was granted parole by the United States Parole Commission on November 15, 1979. Mr. Pruett served an additional 18 months after he entered the Program.

Question: Did any Departmental groups testify at his parole hearing? If so, provide details of their testimony.

Answer: No one from the Department testified at Mr. Pruett's parole hearing. However, the Assistant United States Attorneys who prosecuted the case in which Pruett testified did advise the Parole Commission, by letter, of Mr. Pruett's cooperation. Copies of these letters are attached. Neither of the Assistant United States Attorneys requested or recommended that Pruett be granted parole.

Earl Cassel

Question: When and for what reasons was Mr. Cassel admitted to the Witness Security Program? Please supply for the record material relating to the request for his admission (including threat analysis and interdepartmental recommendations made to Office of Enforcement Operations).

Answer: Cassel was authorized to enter the Witness Security Program on June 27, 1977, as a result of his cooperation with federal and state law enforcement authorities and his testimony in a postal fraud prosecution. The Office of Enforcement Operations was not involved in this case (Office of Enforcement Operation was created in February 1979). However, our file indicates that Mr. Cassel and his wife were both threatened by the defendants in the postal fraud case. The Postal Service Inspectors believed that the Cassels were in danger and, beginning on May 16, 1977, provided protection for the family.

Both defendants in the Postal case had engaged in a wide range of criminal activity, and were considered dangerous. Informant information revealed that one of the defendants was attempting to arrange for a contract murder of a Milwaukee, Wisconsin police officer.

The material relating to Mr. Cassel's admission to the Program has already been made available to the Subcommittee for review. We do not believe it is appropriate to make this material part of the record.

Question: What were the results of his testimony? i.e. Who got convicted, of what crimes, and what were their sentences?

Answer: Timothy Fidler and Kenneth Kutnyak were both convicted of conspiracy to possess stolen money orders. Fidler was sentenced to 8 years, Kutnyak to 3 years.

Question: Please detail by date and purpose all contacts and/or services the Department had with Mr. Cassel after this admission to the Program.

Answer: The Office of Enforcement Operations has had no contacts with Mr. Cassel.

Question: Was Mr. Cassel on probation when he entered the Program?

Answer: Yes.

Question: Was he supervised by trained probation officers after he entered the Program? If not, why?

Answer: The Office of Enforcement Operations file has no information concerning this matter. However, approximately three years ago the Federal Probation Division began supervising all Program participants on court-ordered probation.

Warren Simms

Question: When and for what reasons was Mr. Simms admitted to the Witness Security Program? Please supply for the record material relating to the request for his admission (including threat analysis and interdepartment recommendations made to Office of Enforcement Operations).

Answer: Simms was authorized to enter the Witness Security Program in January 1978 as a result of his cooperation with federal and state law enforcement in cases involving an extensive narcotics organization operating internationally. This organization was well known for violence and had been credited by law enforcement with the murder of eight potential or active government witnesses. The threat to Simms' life was considered serious. Since Mr. Simms was a prisoner at the time of his entry into the Program, he was incarcerated in a safe institution until he was granted parole on July 25, 1979.

The material relating to Mr. Simms' admission to the Program has already been made available to the Subcommittee for review. We do not believe it is appropriate to make this material part of the record.

Question: What were the results of his testimony? i.e. Who got convicted, of what crimes, and what were their sentences?

Answer: Mr. Simms' cooperation with law enforcement (both federal and state) resulted in 14 convictions.

Question: Please detail by date and purpose all contacts and/or services the Department had with Mr. Simms after his admission to the Program.

Answer: The Office of Enforcement Operations has had no contact with Mr. Simms.

Question: Was Mr. Simms on probation when he entered the Program?

Answer: No. Simms was on parole.

Question: Was he supervised by trained probation officers after he entered the Program?

Answer: The Office of Enforcement Operations file has no information concerning this matter. However, in December 1981, the United States Parole Commission agreed to begin supervising all federal parolees in the Witness Security Program.

Question: Are there any other incidents that have occurred in Mississippi involving protected witnesses that we have not heard about?

Answer: Office of Enforcement Operations is not aware of any.

Follow-up Issues Related To The Murders

Question: Provide copies and descriptions of any studies made (re: witnesses arrested after admission to Program).

Answer: Attached is a copy of the review done by a committee in the Department in 1977. Section IV reports that 15% of Program participants were arrested after relocation.

Creditors

Question: Is it the Department's policy to not disclose a witness' identity to resolve a civil dispute?

Answer: No. When the Department is advised of a civil dispute or legitimate debt left unpaid by a witness, the United States Marshals Service assists the creditor in serving legal process, and encourages the witness to meet his legal obligation.

Question: If it is, what is the reason for this and how does the Department justify interfering in a legitimate creditor's ability to recover their property?

Answer: If the witness does not pay the debt or arrange for a payment schedule, and a judgment is entered against the witness, consideration is given to revealing the witness' location to the creditor.

Peter Aver

Question: For what reason was Mr. Aver admitted to the Program?

Answer: Mr. Aver entered the Witness Security Program in October 1978 at the request of the United States Attorney in Boston, Massachusetts. Mr. Aver was cooperating with federal and state law enforcement officials in several investigations involving public corruption and organized crime. The Suffolk County District Attorney used Mr. Aver's testimony in the prosecution of two men accused of murdering four others in what became known as the "Blackfriar's Massacre." Involvement of organized crime figures in these investigations increased the danger to Mr. Aver's life because of his cooperation.

Question: What were the results of his testimony? Who got convicted, of what crimes, and what were their sentences?

Answer: In the "Blackfriar's Massacre" case, both defendants (Italiano and Ierardi) were acquitted of first degree murder.

The following are the results of the Federal cases in Massachusetts:

1. United States v. John R. Barletta (CR No 79-335)
   Violations charged: 18 USC 371, 1341 (conspiracy, mail fraud).
   Results: mistrial - dismissed for pretrial exclusion of evidence.
   Defendant: Massachusetts meal tax examiner

2. United States v. Alfred Cataldo (CR No 79-118)
   Violations charged: 18 USC 371, 659 (conspiracy, receiving stolen property from interstate shipment)
   Results: conviction; sentenced to 2 years (reduced to time served after 3 months and balance on probation)
   Defendant: Organized crime figure

3. United States v. Richard H. Cronin (CR No 79-196)
   Violations charged: 18 USC 1952 (travel act, bribery)
   Results: conviction; sentenced to 1 year suspended, 2 years probation
   Defendant: Massachusetts state probation officer

4. United States v. William Henderson (CR No 78-494)
   Violations charged: 18 USC 1951 (Hobbs Act extortion)
   Results: acquitted
   Defendant: Massachusetts state ABC Commissioner

5. United States v. Charles J. Morretto (CR No 79-336)
   Violations charged: 18 USC 1341 (mail fraud)
   Results: convicted; sentenced to 1 year suspended, 2 years probation, $1000 fine on each count. Total $20,000 fine and 40 years probation.
   Defendant: local businessman (restauranteer)

6. United States v. Anthony F. Previte (CR No 80-034)
   Violations charged: 18 USC 371, 201, 645 (conspiracy, bribery, false statement to SBA)
   Results: convicted of conspiracy; sentenced to 1 year
   Defendant: SBA loan officer

7. United States v. Walter J. Smith (CR No 78-494)
   Violations charged: 18 USC 1951 (Hobbs Act/ extortion)
   Results: convicted; sentenced to 18 months, reduced to 1 year because of hardship
   Defendant: State ABC Investigator

8. United States v. George Stavros (CR No 79-335)
Violations charged: 18 USC 1341 (mail fraud)
Results: convicted; suspended sentence and 3 years probation; $8,000 fine; public service

9. United States v. Anthony Zirpolo (CR No 79-118)
Violations charged: 18 USC 371, 659 (conspiracy; receiving stolen property from interstate shipment)
Results: convicted; sentenced to 3 years concurrent with state sentence.
Defendant: Organized crime figure

The following are the results of the federal cases in Jacksonville, Florida:

1. United States v. Dan Scarborough, et al.
Violations charged: mail fraud, extortion, conspiracy
Results: Dan Scarborough: convicted, sentenced to 2 years and $15,000 fine; Harold Haimowitz: convicted, sentenced to 3 years and $20,000 fine; George Onett: convicted, sentenced to 6 months and $22,500 fine.
Defendants: Scarborough: Former President Pro Tem, Florida State Senate; Haimowitz: attorney, head of Democratic Executive Committee, Jacksonville, Florida; Onett: Tallahassee lobbyist, Florida State Senate.

2. United States v. Charles Jones & Harold Haimowitz
Violations charged: wire fraud
Results: Jones convicted, sentenced to 5 years; Haimowitz acquitted
Defendants: Jones: health inspector; Haimowitz: see above.

3. United States v. Harold Haimowitz
Violations charged: wire fraud
Results: convicted, sentenced to 5 years and $20,000 fine
Defendant: see above.

Prior Convictions and Supervision for Peter Aver

Question: Our understanding is that Aver had approximately 16 felony convictions in the Boston area prior to entering the Program, all for fraud or theft; and he had his name legally changed on his own to avoid creditors. Is this information correct?

Answer: Mr. Aver's Federal Bureau of Investigation identification record reflects one felony conviction in the Boston area prior to his entry into the Program. However, it is stated in the government's Response to Defendant Previte's post trial motions (United States v. Anthony F. Previte, CR 80-34-Mc), dated August 27, 1980, that Aver's prior bad acts, including 6 felony convictions resulting in prison terms, had been presented to the jury during Previte's trial.

Mr. Aver had his name changed prior to his entry into the Program.

Question: When Mr. Aver entered the Program, was he on probation or parole for any previous criminal activity? If so, how was he supervised?

Answer: The Office of Enforcement Operations has no information that Aver was on probation or parole when he entered the Program. He was not supervised.

Question: Don't you think the Government should have a duty to closely watch an individual like Mr. Aver, especially when he is given a new name and relocated into an unsuspecting community?

Answer: Relocated witnesses who are not on court ordered supervised probation or parole are not supervised by the United States Marshals Service after they enter the Program. The Service has no legal authority to do so and the witness enjoys the rights and responsibilities of any other citizen. However, if a witness engages in criminal activity and is arrested and fingerprinted, the witness' Federal Bureau of Investigation identification record will be delivered to the arresting authority and his true background will be disclosed if necessary.

Question: We understand that during the period Aver was in the Witness Security Program, the Marshals Service tried on several occasions to have him removed from the Program to no avail. Who overruled the Marshals Service and on what grounds? Could you please provide the committee with all correspondence between the United States Marshals Service and the Office of Enforcement Operations regarding Aver's transgressions and attempts to have him removed from the Program.

Answer: In August 1979, the United States Marshals Service advised that Mr. Aver's subsistence would terminate in November because he was self-employed. Upon learning that Mr. Aver was not self-employed, the Office of Enforcement Operations recommended to the Service that Aver be continued on subsistence until he was employed or some form of public assistance was found.

In January 1980, the United States Marshals Service advised the Office of Enforcement Operations that Mr. Aver voluntarily terminated his participation in the Program while in a danger area.

In February 1980, the Office of Enforcement Operations recommended to the United States Marshals Service that Mr. Aver be reinstated for the purpose of new documentation only after his cover name had been compromised. The Service agreed to reinstate for that purpose.

In August 1980, the United States Attorney, Middle District of Florida, and the Federal Bureau of Investigation requested that Aver be reinstated as a result of his cooperation and intended testimony in that District. In January 1981, Deputy Attorney General Charles B. Renfrew authorized Aver's reinstatement into the Program. Aver never reentered.

On July 21, 1982, the Office of Enforcement Operations authorized Aver to enter the Program as a prisoner to ensure that he was not harmed while serving his state and federal prison sentences.

We do not believe it is appropriate to make copies of our internal communications a part of the record. The Subcommittee may review this correspondence in our office.

Peter Aver As Undercover Operative

Question: Our understanding is that Mr. Aver was extensively involved in an undercover operation for the Department after he was in the Program. Isn't there a Program rule that once a protected witness enters the Program he is no longer to be used in undercover operations? And if there is, when, by whom, and for what reasons was this rule waived?

Answer: Relocated witnesses may not be used in undercover operations unless specific authorization for such use is given by the Office of Enforcement Operations. It was given in this case because the circumstances of the investigation warranted his use.

Information on Mr. Aver from Susan Boda

Question: We have received information concerning Aver from a Huntsville, Alabama woman, Ms. Susan Boda.... To clarify the situation, please provide the committee a listing of all known testimony given by Peter Aver during May and June 1980.

Answer: The Office of Enforcement Operations has no specific information concerning his testimony during May and June 1980.

Ms. Boda's requests to have Mr. Aver served were made directly to the United States Marshals Service. The Office of Enforcement Operations learned of these efforts in July 1980.

Other Problems with Mr. Aver

Question: Other information indicates that a Mr. Gann of Huntsville also was financially injured in his dealings with Mr. Aver. Please list all the creditors or other persons who have contacted the Department in regard to Mr. Aver's activities.

Answer: Mr. Boda and Mr. Gann both made direct contact with the Department. The Office of Enforcement Operations advised Mr. Gann of the proper procedure to follow in pursuing his claim, and Ms. Boda's inquiries (and her attorney's) were referred to the United States Marshals Service for response.

Question: Other information indicates that Mr. Aver has left Small Business Administration loans unpaid in Boston and Jacksonville.

Answer: The Office of Enforcement Operations is aware of these allegations, however, there is no direct information in our files concerning them.

Jack Grillo Impersonating United States Marshal

Question: Mr. William R. Picton of Alamo, California, claims that he cosigned a loan for Jack Grillo who stated that he was a United States Marshal (possibly a violation of 18 U.S.C. 912). The Department of Justice and the United States Marshals Service were informed of this case in 1976. Was this claim ever investigated by the Department or the United States Marshals Service? If so, please provide to the subcommittee materials and information developed through the investigation.

Answer: In October 1976, the Criminal Division received information alleging that Mr. Grillo may have been impersonating a United States Marshal. The Division immediately referred the matter to the Federal Bureau of Investigation for investiga-

tion. In January 1977, the Federal Bureau of Investigation concluded its investigation and presented the results to the appropriate Assistant United States Attorney for a decision concerning prosecution of Mr. Grillo. The Assistant United States Attorney declined to prosecute the matter. We do not believe it is appropriate to make correspondence concerning this investigation a part of the record. The Subcommittee may review these documents in our office.

Criteria for Disclosing Location of Protected Witnesses

Question: During the subcommittee's hearing on 7/6/82, Gerald Shur stated that the Department of Justice has developed a policy of disclosing the location of a protected witness in some civil cases. What criteria are used to make the determination to disclose a witness' location? Does this case meet those criteria?

Answer: The United States Marshals Service must address the description of criteria. When the United States Marshals Service is advised of a legitimate debt a witness has left unpaid, the creditor is encouraged to serve legal process through the Service, and the witness is encouraged to meet his legal obligations. If the witness does not pay his debt or arrange for a payment schedule (which the Service will facilitate in a secure manner), the Service will take the following action:

1) determine that the debt is legitimate
2) advise the Office of Enforcement Operations of the circumstances and obtain its concurrence
3) advise the witness, in writing, of the Service's intentions to reveal his location if the debt is not resolved within 30 days.

Question: During the subcommittee's hearing, Department officials stated that the Department has developed a policy to disclose the identity and location of witnesses in various circumstances to resolve civil debts. What is the status of this policy, ie., if not yet firm, who has it under consideration and when is a decision expected?

Answer: The policy is firm.

Question: What authority does the Department have to interfere or disrupt the ability of third parties to recover civil damages?

Answer: None.

United States Department of Justice

UNITED STATES ATTORNEY
NORTHERN DISTRICT OF GEORGIA
428 U. S. COURTHOUSE
50 FORSYTH STREET, N. W.
ATLANTA, GEORGIA 30303

Ms. Audrey A. Kaslow
United States Parole Commission
Crocker Financial Center Building
330 Primrose Road
Fifth Floor
Burlingame, California 94010

1979

Fwd for Dec

Re: Marion A. Pruett, No. 22655
MCC, San Diego

Dear Ms. Kaslow:

Marion A. Pruett recently testified in the United States District Court for the Northern District of Georgia as a government witness in the case of United States v. Allen Clifton Benton. Benton was prosecuted for the murder of, and conspiracy to murder, William Rhett Zambito, an inmate at the United States Penitentiary in Atlanta, Georgia.

Pruett slept in the bunk bed immediately beneath the bed in which Zambito was murdered. Although he did not actually see Benton stab Zambito he did see Benton in his cell immediately before the murder was committed. Pruett was able to add to the conspiracy evidence by testifying about a conversation he had with one of the co-conspirators the night before the murder and to several conversations he had with co-conspirators after the murder took place.

Benton was convicted of conspiracy to murder, a crime which carries a maximum penalty of life imprisonment. He has not yet been sentenced. Mr. Pruett's testimony was very valuable in securing this conviction.

Due to the nature of the case and the people involved Mr. Pruett has placed himself in danger by becoming a government witness. For this reason he has been placed in the governemnt's witness protection program and it is my strong recommendation that he continue in this program after he is released from custody.

If you have any questions regarding the nature and extent of Mr. Pruett's cooperation, please call me at FTS: 242-4735.

Yours truly,

WILLIAM L. HARPER
United States Attorney

Gerrilyn G. Brill

By: GERRILYN G. BRILL
Assistant United States Attorney

United States Department of Justice

UNITED STATES ATTORNEY
NORTHERN DISTRICT OF GEORGIA
474 U. S. COURTHOUSE
56 FORSYTH STREET, N. W.
ATLANTA, GEORGIA 30303

September 20, 1979

United States Parole Commission
in care of Mr. Chuck Harris
Metropolitan Correctional Center
808 Union Street
San Diego, California 92188

Re: Marion Pruett

Gentlemen:

Marion Pruett, a federal inmate who is hoping to be considered for parole, requested that I advise you of his cooperation in an investigation into a murder at the Atlanta Federal Penitentiary. The victim was a William Rhett Zambito, an inmate. I was involved in this investigation shortly after it occurred, and at that time Mr. Pruett came forward and provided valuable information. Thereafter, Mr. Pruett testified for the United States at the trial of Allen Benton who was charged with this murder and with conspiracy to commit it. Benton was found guilty of conspiracy to murder but was acquitted of the actual murder. He is awaiting sentencing.

I understand that Ms. Gerrilyn Brill, the Assistant United States Attorney who tried the Benton case and who dealt with Mr. Pruett extensively, has already written to you and provided the details as to Mr. Pruett's cooperation. Mr. Pruett requested that I make you aware of his cooperation during the initial stages of the investigation.

If you have any questions, please advise.

Very truly yours,

James E. Fagan, Jr.
Assistant United States Attorney

cc: Marion Pruett

99-629 O - 83 - 6

QUESTIONS ANSWERED BY THE U.S. MARSHALS SERVICE

Number of Witnesses Accepted into Witness-Security Program

Question: How many witnesses and family members have been accepted into the Program?

Answer: 10,039 witnesses and family members have entered the Witness Security Program as of September 1, 1982.

Cost of Program

Question: What has been the overall cost of the Program by fiscal year since its inception and what is the level of Federal resources (staff years and dollars) devoted by the Marshals Service and the Office of Enforcement Operations to the operation and management of the Program?

Answer: Please see the attached budgetary history (next page).

Question: How many Title V witnesses have been admitted (by fiscal year) to the Program?

Answer:

FY 74	6 Reimbursable	
FY 75	12 Reimbursable	
FY 76	4 Reimbursable	
FY 77	9 Reimbursable	
FY 78	21 Total	(14 reimbursable, 7 non-reimbursable)
FY 79	18 Total	(13 reimbursable, 5 non-reimbursable)
FY 80	22 Total	(11 reimbursable, 11 non-reimbursable)
FY 81	7 Total	(6 reimbursable, 1 non-reimbursable)
FY 82	9 as of 9/1/82	(8 reimbursable, 1 non-reimbursable)

Note: Prior to FY 1978, the Marshals Service did not maintain separate listings of Title V non-reimbursable witnesses.

Question: How much money (by fiscal year) has the Department been reimbursed for these admissions?

Answer: The Department of Justice records indicate that the Marshals Service was reimbursed the following amounts:

FY 80 - $ 5,293.50
FY 81 - $300,853.96
FY 82 - $419,596.63

BUDGETARY HISTORY (Dollars in thousands)

FY	0311	USMS	TOTAL	WK YR
71	not available	310		96
72	not available	310		170
73	1,000	1,839	2,839	224
74	1,200	1,949	3,149	275
75	3,000	8,368	11,368	207
76	4,030	8,396	12,426	176

BUDGETARY HISTORY (Dollars in thousands)

FY	0311	USMS	TOTAL	WK YR
77	5,950	6,033	11,983	157
78	6,056	5,592	11,648	272
79	7,603	12,267	19,870	290
80	8,383	13,076	21,459	281
81	8,821	15,616	24,437	250*
82	7,900	18,854	26,754	236*

* Estimate

Cost Per Participant

Question: Given the average family size for witnesses admitted to the Program, what is the average cost to admit a witness and his family to the Program and provide them with services? Also, what would constitute the high and low ranges?

Answer: The average cost to provide full Program services for a family of four is estimated at $94,265. Inasmuch as most services are standard, this amount is fairly constant.

Reports to Department

Question: Are any other reports to the Department concerning Program operations required or prepared? For example, given the controversy of the Program, are routine reports required or prepared on witness complaints, witness criminal recidivism, complaints by third parties, involvement of Government in litigation arising out of law suits concerning relocated witnesses?

Answer: The Marshals Service provides the Department with a monthly statistical report relative to the number of witnesses authorized into the Program, the number of witnesses serviced, etc. This is the only "routine" report provided on a monthly or regular basis. Copies of complaint letters from witnesses are forwarded upon receipt to the Office of Enforcement Operations (OEO) by the Witness Security Division. Copies of the Division's response to the witness is subsequently forwarded. The Witness Security Division advises OEO by individual memorandum whenever information is received relative to a witness' arrest.

Marion Albert Pruett

Question: For the record, please detail all services and/or contacts with Mr. Pruett after his admission to the Program.

Answer: Marion Albert Pruett entered the Witness Security Program on May 3, 1978, as a prisoner witness meaning that he would be afforded no services by the Marshals Service other that secure transportation between penal institutions and physical protection during court appearances.

On October 15, 1979, the Marshals Service conducted a preliminary interview with Mr. Pruett as he was soon to be

released from prison. On the basis of this interview, the Marshals Service recommended against his acceptance into the Program for full services. This recommendation was forwarded to the Office of Enforcement Operations (OEO) on November 2, 1979.

On November 7, 1979, Mr. Pruett and his fiancee, Pamela Sue Canuteson, were authorized into the Program for full services. Upon Mr. Pruett's release from prison on November 15, 1979, he and Ms. Canuteson were relocated to New Mexico. They were provided with documentation in a new name for security purposes, assistance in locating housing and moving their household goods securely, medical care, employment assistance and a monthly living allowance during the period from November 15, 1979 until their termination in July 1980. During the time Mr. Pruett was receiving monthly funding from the Marshals Service, the Witness Security Inspector in New Mexico was in regular contact with him and Ms. Canuteson. Our records do not detail every contact with Mr. Pruett between November 15, 1979 and July 1980, but it is probable that during the first months that Mr. Pruett and Ms. Canuteson lived in New Mexico the inspector was in contact with them several times each week as he assisted them in locating housing and employment.

After Mr. Pruett's termination in July 1980, the Marshals Service was advised of his arrest in early August 1980, for interferring with an officer, concealing his identity, disorderly conduct and resisting arrest. He pleaded nolo contendre and was sentenced to six months unsupervised probation.

On the evening of March 1, 1981, Ms. Canuteson telephoned the witness security inspector and stated that she had heard through a friend that her husband, Pruett, planned to kill her. The inspector advised her to call the police. She said that she did not trust the police and would meet with the inspector the next day. The following day, Pruett contacted the inspector and said that his wife was missing. Pruett then filed a missing's persons report with the local authorities. On April 16, 1981, a charred body, subsequently identified as that of Pruett's wife, was found in the desert. Mr. Pruett was arrested on a material witness warrant. He was later released by the judge on April 20 and left New Mexico the following week. The Marshals Service assisted the local authorities with their investigation. On June 12, the Sandoval Sheriff's Office obtained a warrant for Pruett's arrest charging him with first-degree murder.

Supervision of Mr. Pruett

Question: What kind of supervision did Mr. Pruett receive after he was paroled?

Answer: At the time Mr. Pruett was released from prison the Parole Commission had not entered into an agreement with the Marshals Service whereby Program participants on federal parole were supervised. Consequently, Mr. Pruett's activities were not supervised by a federal parole or probation officer. The Service has consistently taken the position that parolees in the Program should be supervised.

State Witnesses in Program

Question: How many state witnesses in the Program are in a probation or parole status?

Answer: The Marshals Service entered into an agreement with one state whereby the Service provides the state parole commission

with quarterly status reports as to whether or not the individual has been arrested. There are presently 17 Program participants who are on parole from this state.

The Marshals Service has recently made arrangements with another state parole board to have a witness, who was paroled this summer after he had served his sentence for murder, supervised by the state parole board in his relocation area. The Marshals Service supports the concept of Federal probations supervision of state parolees.

Question: Are these witnesses supervised by trained parole or probation officers?

Answer: Pursuant to the agreement with this one state, the Marshals Service provides quarterly status reports. These 17 state parolees are not supervised by trained parole or probation officers. The Service only reports; it does not attest to the accuracy of the report.

The witness described above who was paroled this summer is being supervised by trained state parole officers.

Question: If not, why not?

Answer: It is not within the purview of the United States Marshals Service to supervise either federal or state parolees or probationers. Additionally, participation in the Witness Security Program is purely voluntary; a witness can terminate his participation in the Program at any time and leave the relocation area. Consequently, Marshals Service inspectors, unlike parole or probation officers, are unable to compel a witness to remain in the relocation area or submit to other conditions of parole/probation.

Question: What is done to supervise these persons?

Answer: The Marshals Service has neither the authority nor the training to supervise state or federal parolees or probationers. The Service has, however, discussed with the U.S. Parole Commission and the Office of Probation the possibility of state parolees and probations being supervised by trained federal parole/probation officers. This request is presently under consideration.

Question: What states do you currently have supervision agreements with?

Answer: The Marshals Service has no "supervision" agreements with any states. As indicated above, the Service has agreed to provide information to one state parole authority on a quarterly basis relative to any arrests of that state's parolees who are Program participants.

Question: Could you supply the Committee with copies of any such agreements?

Answer: The agreement is attached.

Earl Cassel

Question: Please detail by date and purpose all contacts and/or services the Department had with Mr. Cassel after this admission to the Program.

Answer: Earl Cassel entered the Program with his wife and her son on June 27, 1977. Mr. Cassel and his family were subsequently relocated. Mr. Cassel, however, breached his security and had

to be relocated a second time in November 1977 to southern Mississippi. Mr. Cassel and his family were provided full services under the Program to include documentation, medical care, assistance in locating housing and moving their household goods in a secure manner, employment assistance and a monthly living allowance during the period from June 27, 1977 until his termination in July 1978.

On June 1, 1979, almost a year after his termination from funding, Earl Cassel and his wife were arrested for armed robbery and homicide at the Rebel Package Store in Pascagoula. His wife was subsequently released. Earl Cassel was charged with capital murder. He pleaded guilty to manslaughter and was sentenced to 15 years. He is presently incarcerated.

On July 19, 1982, as a result of the extensive press coverage of testimony before the Subcommittee regarding Mr. Cassel, OEO authorized protection for Mr. Cassel under the Program as a prisoner witness for transportation only.

Question: Was Mr. Cassel on probation when he entered the Program?

Answer: When he entered the Program in June 1977, Mr. Cassel was on 2 years state probation as a result of a 1976 conviction for burglary. The Marshals Service, however, was not aware of his status until we received his criminal record from the FBI. In 1977, as a result of his guilty plea in a stolen postal money order case just before he entered the Program, Cassel was placed on Federal probation for 2 years.

Question: Was he supervised by trained probation officers after he entered the Program? If not, why not?

Answer: The Probation Office was advised of Mr. Cassel's status and location by the Marshals Service. Marshals Service files do not reflect whether or not he was supervised.

Question: Please provide the Committee with all supervision reports on Mr. Cassel while he was in the Pascagoula, Mississippi area.

Answer: As a rule, the Marshals Service is not provided copies of Probation's supervision reports. The Marshals Service has no supervision reports concerning Mr. Cassel.

Warren Simms

Question: Please detail by date and purpose all contacts and/or services the Department had with Mr. Simms after his admission to the Program.

Answer: Warren Simms entered the Program as a prisoner witness for secure transportation services only on April 4, 1978. A year later, in June 1979, he was approved for full Program services over the objections of the Marshals Service.

Mr. Simms exhibited a complete disregard for Program guidelines. The Marshals Service learned that he employed a friend from the danger area. He and his daughter were arrested in a "disorderly" house where gambling was going on. Mr. Simms was terminated from funding in March 1980.

As the Subcommittee is aware, Mr. Simms and his daughter robbed a bank in Vicksburg on October 6, 1981, during which his daughter was shot and killed. Mr. Simms was also wanted in connection with a $13,535 food stamp fraud and the selling of cocaine.

Mr. Simms pleaded guilty to bank robbery and is presently incarcerated.

Question: Was Mr. Simms on probation when he entered the Program?

Answer: Mr. Simms was on parole when he entered the Program. His term of parole was to expire on July 6, 2006.

Question: Was he supervised by trained probation officers after he entered the Program? If not, why not?

Answer: The Parole Commission had not agreed to supervise Program participants at the time Mr. Simms entered the Program. The Commission only agreed to this supervision in October 1980.

Question: Please provide the Committee with all supervision reports and other materials on Mr. Simms while he was in Oklahoma.

Answer: Marshals Service files contain no supervision reports for Mr. Simms.

Other Incidents with Protected Witnesses in Mississippi

Question: Are there any other incidents that have occurred in Mississippi involving protected witnesses that we have not heard about?

Answer: The Marshals Service is not at this time aware of any other incidents, such as the crimes discussed above, having happened in Mississippi.

Question: What does the latest available data show about the percent of witnesses in the Program having criminal histories?

Answer: It is estimated that approximately 97 percent of Program participants have criminal records.

Question: What percent of witnesses get arrested and convicted after their admission to the Program?

Answer: A review conducted this past spring indicated that of the 1,174 witnesses entering the Program between October 1, 1979 and April 30, 1982, 17 percent had been arrested after their admission to the Program.

Question: Describe how you determine and monitor the frequency of this occurrance.

Answer: Information relative to a witness' arrest is usually forwarded to the Witness Security Division by the field inspectors. In some instances, this information is forwarded to the Marshals Service by the FBI. This information is now being recorded in the Division's mini-computer and is reviewed on a regular basis.

Question: Provide copies and descriptions of any studies made.

Answer: The results of the study completed in April 1982 are reflected in the Arrests of Relocated Witnesses attachment. The Service cannot provide the Committee with the actual arrest report forms used to compile these statistics as these documents contain information which would reveal the relocation areas and new identities of 93 witnesses and their dependents.

Convictions of Relocated Witnesses

Question: How many relocated witnesses have been convicted or otherwise implicated in murders after they entered the Program? (List by name, date, location of murder.)

Answer: Of the 1,174 witnesses entering the Program between October 1, 1979 and April 30, 1982, 6 were charged with murder or homicide; of those 2 were acquitted, 1 convicted and the disposition of 3 are unknown. The Service cannot provide the Committee with the names and locations of these incidents, because this information would compromise the locations and new identities of protected witnesses and their dependents.

Question: Do you institute special procedures when handling "honest" witnesses who come into the Program. Or put another way, are special procedures adopted to handle a particularly violent criminal, say an Albert Pruett?

Answer: In an effort to better assist all witnesses entering the Program for full services, the Marshals Service has contracted with a team of vocational counsellors. All witnesses entering the Program since May 1982, are given a battery of vocational and psychological tests which are designed to assist the Marshals Service in locating suitable employment and in recognizing anti-social behavior. The results of these tests are individually reviewed by the vocational psychologists who have had extensive experience in counselling individuals who had difficulty in finding employment or had made difficult relocations. Additionally, any witness recently released from prison or who has a history of violence is personally interviewed by one of the psychologists to determine his suitability and anticipated success in ajusting to Program guidelines. The psychologists' recommendations have been helpful to the Service in seeking additional supervision and counselling for witnesses already admitted to the Program and to the Department in not accepting potential witnesses who most likely could not adapt to the Program. The Service does not have special procedures, per se, to assist "honest" witnesses.

National Crime Information Center

Question: Describe how NCIC and fingerprint procedures of the Federal Bureau of Investigation apply to protected witnesses.

Answer: When a witness enters the Program, his fingerprints and those of any adult dependents in the household are forwarded to the FBI. A "stop" or flag is placed on the prints. Should an inquiry be made on any of these prints, the Marshals Service would be notified immediately. The Service then determines whether the response should be hand carried to the requester, explaining that the individual is a relocated witness and that security should be maintained relative to his identity or whether the response can be sent in the normal fashion. In all cases, the individual's true and total criminal record, if any, is made known to the requester. Procedures have been established to provide the FBI with witnesses' new names, but in a manner so as not to compromise their security.

Warrants for relocated witnesses are entered into NCIC as any other warrants are.

Question: How long (excluding mailing time) would this system take to notify the local law enforcement officials of the witness' criminal record.

Answer: The Marshals Service generally responds to inquiries from the FBI within one day, if not the same day. It is then the responsibility of the FBI to respond to the requester.

Question: Since there is not on-line name identification system currently available in the NCIC system, couldn't this delay hinder local officials in determining if charges should be brought against the witness, the type of charges to be brought, or what level of bail to seek based on the witness' past criminal history?

Answer: Witness security field inspectors cooperate with local law enforcement officials in providing them with this necessary information in a timely manner.

Question: What could be done to speed up the process?

Answer: The Marshals Service responds to such inquiries as soon as it is made aware of the request.

Extradition of Witnesses

Question: If a witness currently relocated to State A is wanted on criminal charges in State B, what requirements do you place on State B before you will bring the witness back to answer the charges?

Answer: The Marshals Service requests that the State provide us with a written commitment that they will extradite.

Question: How is this position reconciled with previous Department statements that witnesses are subject to all of their legal obligations?

Answer: The Marshals Service does not withhold information relative to a witness' criminal background if the witness is arrested. The Marshals Service cooperates with all legitimate law enforcement investigations.

Requirements to Obtain NCIC Data

Question: Describe the input required to make an NCIC on-line check and what appears to a local law enforcement agency when it makes an NCIC check, e.g. name, criminal data, etc.

Answer: The requester queries by name, date of birth, Social Security number or FBI number. The requester either gets a "hit" or nothing. A "hit" consists of the name, charge and location of the warrant. If a subject provides the arresting agency with an unknown alias, phoney Social Security number, etc., the requester will not get a "hit".

Question: Since the Program has been operable, how many of the witnesses have had Child Custody Problems? Please list all such instances either by witness or various court cases that may have occurred.

Answer: The Marshals Service does not maintain a central index of child custody problems. The Marshals Service, however, has noticed a decrease in subsequent custody problems since it has required witnesses to produce verification of the concerned child's custody.

Child Custody Problems

Question: How many times has the Department been sued in matters of this sort? Please identify all litigation?

Answer: Relevant cases are as follows:

Leonhard v. U.S., 633 F.2d 599 (2nd Cir. 1982)

Leonhard v. U.S., 473 F.2d 709 (2nd Cir. 1973)

Franz v. U.S., 526 F.Supp. 126 (D.C.D.C. 1981)

Salmeron v. U.S., C.A.No. C 82-2784-WTS, N.D.Ca. (1982)

Ruffalo v. Civiletti, C.A.No. 80-0675-CV-W-6, W.D.Mo. (1981)

The Ruffalo and Salmeron cases are pending. The others were either dismissed or decided in favor of the United States.

Question: Do Program procedures mandate that Marshals Service personnel verify all existing child custody and visitation matters when appropriate? If so, when did this policy become effective?

Answer: It has been the policy of the Marshals Service to verify all child custody orders before a witness enters the Program since September 1980.

Question: Even when they do possess custody, how does the Department justify its disruption of the non-relocated parent's visitation rights?

Answer: The Marshals Service facilitates visits between the relocated children and the non-Program parent by providing security for the children in a neutral area where the non-Program parent and the children can visit. For reasons of security, it is necessary for Marshals Service personnel to be present. These visits are arranged so as not to disrupts the children's schooling, but provide the non-Program parent with an opportunity to visit with the children.

Question: We understand that currently a witness named Ruffalo has possession of his son even though his former wife has legal custody. How did the son get relocated when the mother had legal custody?

Answer: This matter is currently in litigation and as such, it would be inappropriate for the Marshals Service to comment.

Question: How do witnesses get relocated with minor children when they do not have legal custody of the children?

Answer: Children are not relocated until the custody matter is resolved.

Ruffalo Case

Question: On the Ruffalo case, how long has it been since the mother has seen her son?

Answer: To our knowledge, Mrs. Ruffalo has not seen her son since his father entered the Program on November 13, 1978.

Question: In response to questions submitted to you by the Committee for FY 83 appropriations concerning child custody problems you responded that the Marshals Service will return relocated children to a non-relocated parent who has legal custody. This apparently has not been done in the Ruffalo case. Why not? Why can't the mother enforce her court-ordered custody rights?

Answer: The matter of legal custody has not been resolved.

Question: Do you believe it is proper for the Department to continue to hide Mr. Ruffalo and his son from the mother? By doing this, isn't the Department thwarting Mrs. Ruffalo's ability to enforce her legal rights?

Answer: Please see earlier response.

Disruption of Child Visitation Rights

Question: How many times have problems arisen with non-relocated parents who have their visitation rights disrupted?

Answer: The Marshals Service makes every effort to provide the non-Program parent with opportunities to visit with his/her children within the parameters of necessary security as described in 38c. The Service also assists the non-Program parent in speaking with his/her children securely on the telephone, as well as providing secure mail forwarding. The Service does not maintain records of the frequency of these visits, telephone calls, or mail forwarding.

Problems of Financial Responsibility

Question: How often do problems of a witness ignoring his financial responsibilities occur?

Answer: The Marshals Service does not maintain records as to the number of witnesses who do not satisfy their financial obligations. It is the policy of the Department and the Marshals Service to not allow a witness to use his participation in the Program as a shield from his legitimate creditors. The Service, in conjunction with OEO, is considering the possibility of disclosing the locations of six witnesses who have not satisfied their debts.

Question: What is the overall magnitude of this occurrence (in terms of judgments awarded and/or claimed losses?

Answer: The Marshals Service does not maintain records as to the amount of pending judgments.

Question: If you don't, why don't you track it?

Answer: The Witness Security Division does not have the personnel available to maintain these statistics.

Question: How often has the Government been sued by creditors trying to recover these funds lost to relocated witnesses? Please list the cases?

Answer: The relevant cases are:

Melo-Tone Vending, Inc. v. U.S., 666 F.2d 687 (1st Cir. 1981)

Boda v. U.S., C.A.No. 81 HM 530 1NE, N.D. Ala. (1981)

Question: Has the Government ever lost? If so, identify these cases and the related costs.

Answer: The Government has not lost a case.

Peter Aver's Status in Witness Protection Program

Question: When was Mr. Aver admitted to the Program and when was he terminated from it?

Answer: Peter Aver was authorized protection on October 10, 1978. Mr. Aver was terminated in January 1980. On July 21, 1982, Mr. Aver was authorized into the Program as a prisoner witness for secure transportation between penal institutions only.

Question: Please detail all services provided to Mr. Aver under the Program. Include all the periods of funding and amounts provided, relocations given to him and the number of identities he received documentation for.

Answer: When Mr. Aver and his family entered the Program in October 1978, they were relocated to a safe area and were afforded full Program services to include assistance in locating housing and moving their household goods in a secure manner, medical care, employment assistance, documentation and a monthly living allowance. Mr. Aver and his family received documentation papers to establish a new identity in one name. Attached is a financial background listing all funds provided to or expended on behalf of Mr. Aver.

Marshals Service records indicate that Mr. Aver relocated himself and his family in August 1979, to another area without first advising the Service. This area did appear to be safe and as such, Mr. Aver was permitted to remain in the Program. No other relocation sites were approved by the Marshals Service during Mr. Aver's participation in the Program.

Testimony of Peter Aver

Question: To clarify the situation (i.e., USMS unsuccessful attempts to serve Aver with Boda Judgment), please provide the Committee with a listing of all known testimony given by Peter Aver during May and June 1980. (Please include date, location and case number.)

Answer: Marshals Service files reflect no request to produce Mr. Aver for testimony during the period May through June 1980. Mr. Aver was no longer a participant in the Program by his own choice. Consequently, it would be unusual for the Marshals Service to be asked to produce or protect him during appearances for testimony.

2. First National Bank of Boston vs. Peter Auer, Massachusetts Complaint 470528

   Judgment: $15,141.60

3. Granada Wines, Inc. vs. Julie Elizabeth, Inc. d/b/a Emerald House E.D.Mi. Civil No. 78-1321

   Judgment: . $3,361.67

4. Susan Boda vs. Peter Abate, Madison County, Alabama, Civil Action No. CV 79-1181W

   Judgment: $70,000 and return of diamond ring

5. Bank of Huntsville vs. Peter Abate, Madison County Alabama, Civil Action No. CV 80-488Y

6. Complaint alleges Abate agreed to pay bank $50,000 plus interest.

7. Letter of complaint received 2/26/79 from firm representing travel agency that Aver wrote a check in the amount of $1,191 for which there were insufficient funds.

8. Alabama Incident/Offense Report CR 1022526 relates that Abate deposited a company loan check in the amount of $6,000 into his personal account; withdrew money and left town.

The Marshals Service has served process on Aver with respect to items 1-6. The Service wrote Mr. Aver concerning item 7 and urged him to satisfy his obligation.

Unpaid Small Business Administration Loans

Question: Other information indicated that Mr. Aver has left SBA loans unpaid in Boston and Jacksonville. If so, detail the loans (include dates, amounts, purpose, repayment status).

Answer: Mr. Aver apparently secured these loans after his termination from the Program. The Marshals Service did not assist Mr. Aver in any way with respect to these loans. The Marshals Service has no official information relative to the dates, amounts, purposes or repayment status of these loans.

Question: Did the Department assist Mr. Aver in getting any of these loans?

Answer: The Marshals Service did not assist Mr. Aver in securing these loans.

Question: What is the Department's policy regarding this matter?

Answer: Pursuant to an agreement with the Small Business Administration, the Marshals Service does serve as a conduit for a witness wishing to apply for an SBA loan. The loan application given to the SBA is completed by the witness listing his assets and liabilities and purpose of the loan. The Marshals Service provides the SBA with full information relative to the witness' criminal history and status as a parolee or probationer. The Service requests that the SBA review the application on its own merits and advises the SBA that the Marshals Service cannot be responsible financially for the applicant.

Jack Grillo

Question: Mr. William R. Picton, of Alamo, California, claims that he cosigned a loan for Jack Grillo who stated that he was a U.S. Marshal (possibly a violation of 18 U.S.C. 912). The Department of Justice and the U.S. Marshals Service were informed of this case in 1976. Was the claim ever investigated by the Department or the Marshals Service? And, if so, please provide to the Subcommittee materials and information developed through the investigation.

Answer: The Marshals Service wrote to William Picton on November 11, 1976, as a result of his letter to Senator Tunney. The Service requested a copy of the loan agreement and any other pertinent documents Mr. Picton might have concerning this loan. Witness Security files contain no reference to a response having been received from Mr. Picton, but the Service did write Mr. Grillo on January 12, 1977 and urged him to make arrangements with Wells Fargo Bank. Grillo advised that he would resume payments to the bank on March 1, 1977. Senator Cranston wrote the Marshals Service on May 23, 1978, on behalf of Mr. Picton. The Service responded at that time that it would make every effort to serve Grillo with process if Mr. Picton were to initiate legal action. The Witness Security files contain no requests from Mr. Picton for service of process in this matter.

A memorandum in the Witness Security Division file indicates that the Intelligence and Special Services Unit, forerunner to the Office of Enforcement Operations, would ask the FBI to investigate the allegation that Grillo had represented himself to be a federal officer.

Question: During the Subcommittee's hearings on July 6, 1982 Gerald Shur stated that the Department of Justice has developed a policy of disclosing the location of a protected witness in some civil cases. What criteria are used to make the determination to disclose a witness' location? Does this case meet those criteria?

Answer: In those instances where a witness refuses to satisfy his financial obligations, the Service, upon verification that the creditor's representation of the debt is legitimate and after consultation with the Department, notifies the witness that he has a certain amount of time -- generally 30 days -- to make arrangements to meet his responsibilities. If he fails to take such steps, he is advised that the Service will provide his creditors with information, including his present location and new identity, to enable them to proceed against him in enforcing their judgment.

It would be inappropriate to comment as to whether or not this case would meet the Service/Department's criteria.

Question: Please chronicle all payments made to Jack Grillo since he entered the Program. Please list by date and amount.

Answer: A funding history is attached.

Question: Please chronicle all contact that the Department or the Marshals Service has had with Grillo, listing the date and the purpose of the contact.

Answer: Jack Grillo and his family entered the Witness Security Program on April 20, 1976. They were relocated to a safe area and provided with full Program services to include assistance in locating housing and moving their household goods in a secure manner, medical care, employment assistance, documentation papers and a monthly living allowance. Mr. Grillo was also provided protection when it was necessary for him to return to the danger area for testimony. Jack Grillo was terminated from funding in September 1977; he was reinstated in November 1977; terminated in May 1978; reinstated in February 1981 and terminated for cause (inability to follow Program guidelines) in May 1981.

Question: It is the Subcommittee's understanding that the Department has made some effort to force Jack Grillo to pay his loan, although unsuccessfully. What is the Department, or the Service prepared to do now to assist Mr. Picton in collecting his money?

Answer: The Marshals Service will make every effort to serve any legal process Mr. Picton would like served on Mr. Grillo. Mr. Picton should forward process to the Witness Security Division.

April 31, 1982

MCW -

Witness Security Special Project

Howard Safir
Assistant Director
for Operations

Regarding your memorandum of March 25, 1982, attached are 140 arrest sheets. These represent the number of arrests of witnesses after their entry into the Witness Security Program, from FY 1979, (WC 2719) to present (WC 3893). During this period of time, 1174 WC numbers were issued, 350 to Prisoner Witnesses.

Out of 140 arrests, 21 were arrested twice, 5 arrested three times and 3 arrested five times. Although all supporting material is not available, it is fair to state that all those arrested had prior criminal records.

Philip M. Tucker
Chief, Witness Security

Attachment

ARRESTS OF RELOCATED WITNESSES

	Arrests	Status
Narcotics	19	16 unknown; 3 convicted
Murder	6	2 acquitted; 3 unknown; 1 convicted
Armed Robbery	11	2 dismissed; 7 unknown; 2 convicted
Assault	13	1 acquitted; 11 unknown; 1 nolle pros
Firearms Violations	8	6 unknown; 2 convicted
Kidnapping	1	1 unknown
Fraud/Forgery	12	7 unknown; 5 convicted
Burglary/Larceny/Theft	43	2 dismissed; 33 unknown; 8 convicted
Parole/Probation/Bond Violations	6	3 unknown; 3 convicted
Other (Prostitution, Drunk Driving, etc)	21	4 dismissed; 14 unknown; 3 convicted

GOVERNMENT WITNESS

(PETER AUER)

P. O. Box 4742
Huntsville, Alabama, 35802
205-883-8112
June 15, 1982

The Honorable Thad Cochran
THE UNITED STATES SENATE
Washington, D. C.

Dear Senator Cochran:

Concerning your interest in abuses related to the Justice Department's Witness Protection Program, enclosed please find a synopsis of events, legal documents, and newspaper articles related to my experiences with one witness.

I understand you are holding hearings in Jackson, Mississippi on July 6, 1982 for the purpose of investigating the Witness Protection Program. I would appreciate the opportunity to address your committee by providing first-hand information regarding my experiences and, particularly, what I have encountered as the Justice Department and the former U. S. Attorney for Massachusetts have obstructed my efforts to exercise due process of law.

I have been informed a subpoena must be served twenty-one days prior to the hearing; however, I would be willing to accept a subpoena with fewer days notice if this would be helpful in complying with the scheduled date of your hearings.

If you have questions, please do not hesitate to telephone me at the above number.

Sincerely,

Susan Boda

Susan Boda

Enclosures

S Y N O P S I S O F E V E N T S

Alleged federal informer, Peter Auer -- alias Aver, Abate, Abbott, Alcott, et al -- has been employed by the Justice Department for from three to twelve years, depending upon the needs of the DOJ at any given time. As Peter R. Abate, he was placed in Huntsville, Alabama in the fall of 1978 by DOJ and Edward Harrington, former U. S. Attorney for the State of Massachusetts. Mr. Abate was introduced to me by my former attorney-of-record, Robert E. Cramer, Jr. -- the DOJ's contact for Abate and Madison County's present District Attorney.

Mr. Cramer had been retained by me to find investors for a small business venture to reproduce original art work I own. Unbeknownst to me at the time, Mr. Cramer was sabotaging my interests in what appears to have been an exchange guaranteeing his political future. While I was in New York on an art marketing expedition, Mr. Cramer telephoned to inform me of his new client, a retiring FBI agent (Exhibit #1), who had recently inherited $12.5 million from his step-father. Mr. Cramer enthusiastically explained that the new client was interested in investing in the reproduction of my art work, that I was to drop everything in New York and return immediately to Huntsville. I first met Mr. Abate on August 2, 1979 at which time he agreed to invest $250,000 in my business venture.

On August 3, 1979 at 7:30 A.M., Mr. Abate telephoned to inform me of a rather complicated impending swindle of my heirloom diamond ring, appraised at $65,000, which was being planned by The Bank of Huntsville which was holding the ring as collaterol for an $11,000 loan. Mr. Abate stated that, while he was going to complete the $250,000 business transaction in mid-August, 1979, he was also going to loan me just enough money to pay off the Bank's note and prevent the swindle. When I telephoned Mr. Cramer, he advised proceeding with Mr. Abate's offer because the persons named by Mr. Abate were certainly capable, in his opinion, of such conduct. That afternoon, Mr. Abate repeated his loan offer and the reasons for same in front of other persons; to quote from the affidavit of a witness:

> ". . . he (Mr. Abate) stated the primary reason for his decision to make this loan was because a man from Mrs. Boda's bank had called him and insisted he not invest in Mrs. Boda's business and not have anything to do with Mrs. Boda . . . "
>
> ". . . Mrs. Boda was to take the ring to Mason's Jewelers . . . where it was to be locked up in the vault for safe-keeping where no one could bother it. The ring was to be left there . . . "
>
> ". . . I do remember Mr. Abate's calling Bud Cramer and telling him to draw up the papers the way he had explained and that he wanted them done by that afternoon . . . "

While Mr. Cramer's secretary prepared the papers, Mr. Cramer went to the Bank and wrote a check in the amount of $11,941 from his trust account to retire the note and retrieve my diamond ring. Because it was after 5:00 P.M. when Mr. Cramer returned to his office, because I was upset over my mother's admission to the hospital that day in a different state, and because Mr. Cramer said he and his wife had an early dinner engagement, I signed the papers without first reading them -- I also trusted my attorney. After I signed what I thought was a routine promissory note, Mr. Cramer wrote me a check in the amount of $2,059 from his trust account. I later discovered that, not only had Mr. Cramer included a conditional sales contract with the promissory note, he neglected to have Mr. Abate sign the papers -- nor, did he ever file them at the Court House.

Sometime between August 3, 1979 and September 5, 1979, Mr. Abate had Mason's Jewelers (a local jeweler whose president is a board of directors member of the above referenced bank) remount the 2.9 carat diamond enabling him to wear it and boast to acquaintances of the heirloom diamond from his step-father. On September 10, 1979, in the course of a conversation wherein Mr. Cramer related events from the previous weekend he and his wife had spent in Atlanta visiting with Mr. Abate and his wife, Mr. Cramer made several references to Mr. Abate's wearing my remounted diamond:

> ". . . I do believe from observing that, that that is your ring . . . he only wore it Sunday and I've never seen a ring that clear . . . in my opinion that's your ring . . . I didn't ask about it . . . "

Apparently, Mr. Cramer considered Mr. Abate's dismantling of my diamond ring and converting it to his own use to be perfectly acceptable.

Following repeated postponements to the planned mid-August completion of the business transaction, Mr. Abate officially breached his promise to invest in my business on September 16, 1979:

> ". . . just forget our deal . . . I will keep the ring . . . I have decided not to do the business . . . I just changed my mind . . . "

After reading THE STING MAN, the book detailing another of the Justice Department's

surreptitious schemes, I am of the opinion Mr. Weinberg and Mr. Abate are proficient technicians in sophisticated methods of behavior control; both are masters in the arts of suggestion, diversion, persuasion, et al. Creating a state of exaggerated suggestibility is nothing more than a method for inducing an individual to set aside his critical and discriminating abilities in favor of emotions and feelings. One way of doing this is to appeal to productive and positive human values and needs. To quote from Dr. G. H. Estabrooks of Colgate University:

> ". . . should the authorities ever decide to use hypnotism extensively either in . . . crime or in warfare . . . it is of such a nature that very few laymen would recognize it . . . the majority of people . . . might be tricked into criminal action (or, actions against their best interests) . . . our Federal Bureau of Investigation is fully aware of every possibility in connection with hypnotism and is extremely efficient in all its activities . . . "

In late September, 1979, when Mr. Cramer refused to protect my interests, I retained new counsel -- James P. Smith. On October 26, 1979, Mr. Smith filed suit against Mr. Abate (CV79-1181-W). Mr. Smith, through his friend, Deputy U. S. Marshal Glenn Brooks, discovered Mr. Abate was operating as a federally protected witness. When Mr. Abate ignored service of the Complaint served through the Marshals Service, Judge Watson issued an Order of Judgement (Exhibit #2) for Mr. Abate to return the diamond ring, rescinding the promissory note and the conditional sales contract, and awarding $70,000 in damages. A Warrant was issued for Mr. Abate's arrest on April 21, 1980 (Exhibit #3). On April 24, 1980, Mr. Cramer telephoned me at my office to inform me that Salvatore Vizzini, Chief, Huntsville Police Department, had telephoned to discuss legal actions against Mr. Abate. Mr. Cramer stated Chief Vizzini had indicated my ring was to be returned to Huntsville and placed in a safety deposit box enabling former Madison County District Attorney, Fred Simpson, to nol prosse the warrant. Why the ring was not to be returned to me was never answered by Mr. Cramer. Since then, I have been told Mr. Abate sold the ring, that he used the ring as collaterol to borrow funds from a local bank, that the bank used the ring as collaterol to borrow from the Federal Reserve, that the federal government is holding the ring as evidence against a bank for corrupt banking practices, that the FBI used the ring as collaterol to finance Mr. Abate's Jacksonville, Florida sting, that the government is using the diamond in intelligence agency research projects, ad infinitum. Whatever the reason, each is unacceptable to me.

Jack Anderson reports the Justice Department has endorsed the use of monies swindled from one source to finance other sting operations. When I inquired about Abate's finances in September, 1979, I received verification of his claims to substantial deposits at Bankers' Trust in Manhattan in the name of his step-father (Angelo Blasi).

On April 28, 1980, the U. S. Attorney for the State of Massachusetts, wrote Mr. Simpson a letter, with a copy to Chief Vizzini, asking that Mr. Abate not be extradicted due to his participating in an on-going FBI investigation (Exhibit #4). While I have absolutely no interest in FBI investigations, it seems only reasonable to me that Mr. Harrington should demand his witnesses honor judicial orders as per Witness Protection Program guidelines prior to requesting special consideration. For reasons I do not understand, my attorney told me Mr. Harrington's letter was unimportant to my case and refused to give me a copy. Interestingly, it was Mr. Abate's Miami lawyer, John F. Evans, who first allowed me to read the letter in March of 1981. Although Mr. Evans refused to given me a copy of the letter, I finally obtained one from a Jacksonville, Florida lawyer.

Proceeding on my own, on July 11, 1980, I telephoned Gerald Shur, Director, Office of Enforcement Operations, U. S. Department of Justice, who informed me:

> ". . . anyone who is a witness in the Program is expected to meet their obligations . . . "

and:

> ". . . we expect civil obligations to be met. And, the one thing I don't want to see people do is to use this Program as a shield from lawful obligations. That's not the intent of the Program and we're not about to get duped along with you in this thing. If we're both getting duped, that's not going to happen . . . "

and:

> ". . . you can tell your attorney that as far as we're concerned, that if an indictment is to be forthcoming, no member of this Department ought to be intruding on that. If there's a criminal violation, and the man should be properly charged, then he ought to be charged . . . "

and:

> ". . . let me tell you, as far as I'm concerned, this is the Department of Justice and that word 'justice' means a whole lot to me . . . "

and:

> ". . . well, let's see if we can put a stop to all this nonesense . . . "

In late July, 1980, I requested the Alabama Attorney General to prosecute the case. Mr. Abate was arrested in Jacksonville, Florida on August 4, 1980; however, because Mr. Simpson again refused to extradict Mr. Abate, he was released. On the morning of August 7, 1980, the Attorney General's Office telephoned from Montgomery to instruct me to go immediately to the Madison County Grand Jury. Although Mr. Simpson's Office and Mr. Smith knew I wished to present my case to the Grand Jury, neither informed me it was in session. I appeared before the Grand Jury in spite of the fact Mr. Simpson had previously held a press conference wherein he stated I did not have a valid claim. I guess Mr. Simpson, along with Mr. Harrington, considered Judge Watson's Order of Judgement to be of no importance. As I attempted to present my information to the Grand Jury, Mr. Simpson and his assistants continually interrupted me to defend Mr. Abate. It was as if Mr. Simpson were trying to prevent the members of the Grand Jury from comprehending what I was trying to explain by confusing the line of questioning. The Grand Jury finally stated insufficient evidence was presented to return an indictment.

In February of 1981, I was introduced to an individual who had been employed by the District Attorney's Office in August of 1980. The following quote is from that person's affidavit:

> ". . . the reason for Mr. Simpson's not extradicting Mr. Abate was the letter from Edward F. Harrington, U. S. Attorney for the State of Massachusetts, requesting Mr. Simpson not extradict Mr. Abate . . . "

Another of the many contradictions and inconsistencies is Mr. Smith's August 1, 1980 letter to John Evans (Mr. Abate's Miami lawyer) -- written just three days before Mr. Abate's arrest in Jacksonville and Mr. Simpson's second refusal to extradict:

> ". . . the District Attorney's Office is pressing me as to whether or not we should proceed with extradiction. It is my hope that, under Alabama's new Criminal Restitution Act, if Abate was prosecuted and convicted, we could have an order in the criminal case (similar to that in the civil case) ordering Abate to give the ring back to Mrs. Boda . . . "

and:

> ". . . our position has always been that Mrs. Boda should not have to pay Peter Abate any money in order to get the ring back, since we have a $70,000 fraud judgement against him along with an order directing that he reconvey the ring . . . "

and:

> ". . . the judge also issued a Rule Nisi requesting that Abate come before the court and show cause why he should not be held in contempt for failure to return the ring to her. However, the U. S. Marshals Service was unable to serve the Rule Nisi upon Abate. I am now proceeding to have the Rule Nisi served by publication . . . "

and:

> ". . . Mr. Abate might also be interested to know that the FBI will begin next week to conduct a formal investigation as to why the U. S. Marshals Service refused to serve process upon him indicating that they did not know of his whereabouts, while at the same time, Abate was testifying for the U. S. Government in Boston . . . "

Although a major portion of Mr. Smith's law practice is collection work, despite the fact Mr. Smith had reason to know Mr. Abate had substantial assets to attach in Jacksonville, and even though the Jacksonville authorities were willing to cooperate in extradicting Mr. Abate, Mr. Smith, suddenly and without notice to me, withdrew the Motion for Rule Nisi on August 22, 1980 for alleged inability to obtain service. Mr. Smith took this action despite the fact court records prove the Marshals Service served Mr. Abate a complaint on August 12, 1980 for The Bank of Huntsville and despite the fact Mr. Smith's law firm handles some collection work for that bank.

The same day Mr. Smith withdrew the Motion for Rule Nisi, another attorney, Robert M. Shipman, approached me about filing suit against the Justice Department under the Federal Torts Claim Act. In spite of a written contract, Mr. Shipman withdrew by letter six months later. Mr. Shipman then informed a local newspaper reporter that if he (Mr. Shipman) continued to press my claims, he would be placing me in "legal peril". Since then, I have been unable to obtain legal counsel.

While my dispute with the Justice Department is personal, this same pattern is being repeated across the country. While Melvin Weinberg piously rationalizes on national TV that anyone who gets conned, either wants to be conned or is a crook, I think something more sinister is happening. From my point of view, it appears the Justice Department is assaulting rights secured to citizens by the Constitution. No rational reason exists for ensnaring ordinary and innocent people into their nest of vipers. Why is the Justice Department licensing the criminal activity of multi-convicted felons? Why is the Justice Department perpetrating injustices? Why is the Justice Department obstructing court orders? What has happened to due process of law? Why is the Justice Department invading the privacy of law abiding citizens? Why are people being denied equal protection of the laws?

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

SUSAN BODA,	)	
	)	
PLAINTIFF	)	
	)	
VS.	)	CIVIL ACTION NO. CV 79-1181W
	)	
PETER ABATE,	)	
	)	
DEFENDANT	)	

ORDER OF JUDGMENT

This cause came on to be heard on the filing of a Complaint by the Plaintiff. The Defendant failed to answer or otherwise respond within thirty days and an Entry of Default was duly entered. The Plaintiff has filed a Motion for Default Judgment, with an attached Affidavit of the Plaintiff, proving damages. The Court is of the opinion that the motion is due to be, and is hereby granted. Therefore, it is ORDERED, ADJUDGED and DECREED as follows:

1. Pursuant to Count I of the Complaint, the Court finds that the Plaintiff, Susan Boda, is entitled to permanent possession of the following described property, to wit:

> One ladies diamond ring (or the largest diamond which has been removed therefrom); platinum mounting marked J.C.C. & Co. (for J.C. Caldwell & Co.), set with a fine emerald-cut diamond measuring 8.2 mm X 7.3 mm, and of exceptional clarity, and flawless under 10X magnification, weighing approximately 2.90 carats. Assuming the ring is still in its original mounting, the mounting is of a filigree weighing a total of approximately 0.60 carats.

It is ORDERED that said property be seized by any sheriff of any county, within the State of Alabama, if said property comes within his jurisdiction. If the property is located without the jurisdiction of the Court, the Defendant, Peter Abate, is ordered to deliver possession of the aforementioned property into the possession of the Plaintiff, Susan Boda, immediately.

2. Pursuant to Count II of the Complaint, judgment is entered in favor of the Plaintiff, Susan Boda and against the Defendant, Peter Abate, in the sum of $70,000 and the costs of this action, for the willful and intentional conversion of the above-mentioned diamond ring.

3. Count III of the Complaint requested the entry of a declaratory judgment. Pursuant to that Count, the Court finds as follows:

a. That Susan R. Boda has complied with all terms of the promissory note executed by her (to Peter Abate) on August 3, 1979.

b. That, since Susan R. Boda has complied with the terms of the August 3, 1979 promissory note (to Peter Abate), the contingent bill of sale for the diamond ring is currently null and void.

c. That, since the contingent bill of sale for the diamond ring is null and void, Susan R. Boda retains title to said diamond ring.

d. That, since Susan R. Boda retains title to said diamond ring, she is entitled to sole possession of said ring.

4. Count V of the Complaint also requested the entry of a declaratory judgment. The Court finds that the 9-1/2% interest rate charged by Peter Abate to Susan Boda is usurious. Since the rate of interest charged by the Defendant, Peter Abate, to the Plaintiff, Susan Boda, is usurious, the Defendant, Peter Abate, has forfeited the right to receive any interest on the promissory note, which was entered on the 3rd day of August, 1979.

5. Count XI of the Complaint requested rescission of the promissory note and contingent bill of sale (Exhibits A and B to the Complaint). The Court finds that execution of both documents was induced by fraudulent misrepresentations on behalf of the Defendant, Peter Abate, to the Plaintiff, Susan Boda. Therefore, both the promissory note and the contingent bill of sale (Exhibits A and B to the Complaint) are hereby rescinded.

DONE and ORDERED, this the 25th day of March, 1980.

CIRCUIT JUDGE

MITTIMUS OR COMMITMENT

To Any Sheriff of Madison County

You will receive

Peter Abate

Charged with the offense of

~~Receiving or selling property~~
~~to which others have a claim~~

into your custody, and detain him

until the _____ day of _____

197 _____, or until legally discharged.

Amount of bond $ 10,000.00 Dollars

Dated this 21st day of April

1978 .

John W. Melton

Magistrate of Madison County
District Judge

Page _____ No. _____

WARRANT

DISTRICT COURT
OF MADISON COUNTY

THE STATE OF ALABAMA

vs.

Peter Abate
Defendant

c/o Phillip M. Tucker
Assistant Chief
Witness Security
United States Marshals Service
Office of the ~~Renderos~~ Director
United States Dept. of Justice
One Tysons Corner Center
McLean, Virginia 22102

Executed the within warrant by arresting the defendant and

( ) Placing defendant in the Madison County Jail

( ) Releasing defendant on Appearance Bond.

this _____ day of _____ 197 .

_____
Sheriff

Received in office _____ 197

_____
Sheriff

Summons Witness for State

Susan Boda
c/o James P. Smith
~~108 South Side Square~~
Huntsville, AL 35801

Summons Witness for Defendant

SHERIFF CLAIMS _____ MILES AT
TEN CENTS PER MILE, TOTAL _____

By _____
Deputy Sheriff

AFFIDAVIT FOR WARRANT Form 8

STATE OF ALABAMA
MADISON COUNTY

IN THE DISTRICT COURT OF MADISON COUNTY

Dan W. McCoy, District Judge

Before me, JUDGE OF THE DISTRICT COURT of Madison County, personally appeared the day ____

____ Susan Boda ____, and made oath that he has probable cause for believing, and does believe, that before the filing of this complaint, ____ Peter Abate ____ whose name is not known to the affiant other than as named, did

with the purpose to hinder, delay, or defraud Susan Boda, who had a lawful and valid claim thereto, under a written instrument, lien, created by law for rent or advances, or other lawful and valid claim, verbal, or written, did sell or remove personal property, consisting of, to-wit: one (1) diamond ring, a further description of which is unknown to the affiant, of the value of, to-wit: $70,000.00, the said Peter Abate having at the time a knowledge of the existence of such claim,

Title 13, 4, 3

which said offense was committed against the peace and dignity of the State of Alabama.

AFFIANT ... Susan Boda

Sworn to and subscribed before me, this 21st day of April, 1980.

District Judge/Magistrate of Madison County

WARRANT OF ARREST

STATE OF ALABAMA
MADISON COUNTY

IN THE DISTRICT COURT OF MADISON COUNTY

TO ANY LAWFUL OFFICER OF THE STATE OF ALABAMA:

You are hereby commanded to arrest ____Peter Abate ____ and bring ____ him ____ before THE DISTRICT COURT, on the ____ day of ____ next to answer the State of Alabama of the charge of ____ Removing or selling property to which others have a claim

Preferred by ____Susan Boda____

Witness my hand ____ 21st ____ day of ____ April ____, 1980

John W. McCoy

District Judge Magistrate of Madison County

United States Department of Justice

UNITED STATES MARSHAL
NORTHERN DISTRICT OF ALABAMA
BIRMINGHAM, ALABAMA 35203

MARCH 7, 1979

TO WHOM IT MAY CONCERN:

This is to certify that Peter R. Abate is now and has been for the past ten (10) years employed by the United States Justice Department.

Any further inquiries regarding the employment of Mr. Abate should be directed to the undersigned at the address indicated.

Richard Bigelow

RICHARD BIGELOW
DEPUTY SUPERINTENDENT - UNITED STATES DEPARTMENT OF JUSTICE
P. O. Box 352
Boston, Mass. 02180

United States Department of Justice

UNITED STATES ATTORNEY
1907 J. W. McCORMACK POST OFFICE & COURTHOUSE
BOSTON, MASSACHUSETTS 02109

ADDRESS REPLY TO
UNITED STATES ATTORNEY
AND REFER TO INITIALS

April 28, 1980

District Attorney Fred Simpson
Madison County Courthouse
Huntsville, Alabama 35801

Dear District Attorney Simpson:

I have been informed that an arrest warrant has been issued for Peter Abate growing out of a civil suit involving a loan made by Abate in the amount of $14,000 for which a ring was given to him by the debtor as security. The warrant was based on the allegation that Abate removed the security from the State of Alabama contrary to law when he was transferred by the United States Government as part of its Witness Protection Program. It should be noted that Abate has always been willing to return the ring to the debtor upon repayment of his $14,000, and in view of the issuance of the arrest warrant, has even offered to return the ring on repayment of $10,000. It is his intention to return the ring to the State of Alabama by placing it in the custody of his Alabama attorney, William Dawson. It is hoped that a compromise can be reached with respect to the civil dispute, and I am informed by his attorney that he will take all steps required in an attempt to resolve the underlying civil controversy.

Pending resolution of the civil matter, please be aware, when you determine as to whether to initiate extradition proceedings against Abate to compel his return to Alabama, that he is presently involved as an important cog in an on-going undercover operation for the Federal Bureau of Investigation at an undisclosed location. Any arrest of Abate at this location will disrupt this operation and render Abate ineffective as far as his future value to the Bureau is concerned.

Your cooperation in this matter is appreciated.

Sincerely,

Edward F. Harrington

EDWARD F. HARRINGTON
United States Attorney

United States Department of Justice
UNITED STATES MARSHALS SERVICE
One Tysons Corner Center
McLean, Virginia 22102

OFFICE OF THE DIRECTOR

MOW

10 JUN 1980

Mr. James P. Smith
Harrison, Burwell, Smith & Sutherlin
Attorneys at Law
108 A South Side Square
Huntsville, Alabama 35801

Dear Mr. Smith:

This is to advise you that after due and diligent search, we are unable to locate Peter Abate. It seems Mr. Abate has departed his last known place of abode and his present whereabouts are unknown.

The policy and procedure, which governs the Witness Security Program, are classified and, therefore, may not be disseminated. Specifically, in answer to your question regarding protected witnesses for whom valid warrants are outstanding, this Service follows normal legal procedures. If the State or local government in question wishes to extradite, the Service will handle the matter as well as any other individual, and will present the witness for an extradition hearing.

Sincerely,

Robert A. O'Connell

ROBERT A. O'CONNELL
Assistant Chief
Witness Security

PAGE 10 The Huntsville Times SUNDAY, JUNE 29, 1980

Formerly of Huntsville

Federal Officials Say Abate Listed Missing After Trial

By JACK HARTSFIELD
Times Staff Writer

Huntsville's elusive Peter Abate, facing two criminal charges here and a possible grand jury indictment next month, apparently has vanished after testifying as a federal informant in Boston earlier this month.

The 35-year-old organized crime informant cannot be located by the U.S. Marshals Service witness security division, according to Robert A. O'Connell, assistant chief of the program in McLean, Va.

O'Connell has notified local attorneys in Huntsville that "after due and diligent search, we are unable to locate Peter Abate.

"It seems Mr. Abate has departed his last known place of abode and his present whereabouts are unknown."

Abate, whose real name is Peter Aver, was given an assumed name and placed in Huntsville last year under the witness security program. He has already been charged in Huntsville with felony conversion of a $70,000 ring and felony embezzlement of funds belonging to Young America Land Development Co.

A county grand jury indictment is to be sought against Abate, or Aver, next month alleging false pretense and felony embezzlement unless the informant makes restitution to his alleged victims here before July 7, according to Assistant District Attorney Thomas K. Jefferson.

O'Connell's brief communique to Huntsville attorney James P. Smith, counsel for local businesswoman Susan Boda in her attempt to have her diamond ring returned, stated that "policy and procedures of the witness security program are classified and, therefore, may not be disseminated."

Smith had attempted to have Abate served through the U.S. Marshals Service May 23 for a hearing to show cause why he should not be held in contempt of court for failing to comply with an order from Madison County Circuit Court Judge S.A. "Bud" Watson for the return of Ms. Boda's ring.

Abate disappeared from Huntsville last September after becoming embroiled in business difficulties, leaving with Ms. Boda's $70,000 ring he was to have been holding as security against a $14,000 loan to her.

Abate has also been sued for $1.4 million in damages by Huntsville Realtor John Gann; $140,000 by Ms. Boda; and another $50,000 by the Bank of Huntsville.

At the time Smith was attempting to have Abate served through the U.S. Marshals Service with the notice of a contempt hearing, Abate was testifying as a federal informant in the Boston trial of a Small Business Administration official and still was supervised by U.S. marshals.

The U.S. Marshals Service, however, did not respond to Smith's attempt to have Abate served until June 20, a week after Abate had completed his testimony leading to the conviction of the SBA official.

Anthony F. Previte, 55, who was chief of the Boston district portfolio division for SBA, is scheduled to be sentenced July 2 by U.S. District Court Judge John J. McNaught in Boston.

He was convicted by a seven-woman, five-man jury of accepting bribes totaling $5,000 from Abate to approve a $170,000 SBA loan and a $100,000 SBA loan. Abate was cooperating in Boston with U.S. Attorney Ted Harrington.

Jefferson wrote Harrington several

weeks ago seeking his assistance in having the federal informant under his control make restitution to his alleged Huntsville victims or face a possib. grand jury indictment.

Jefferson said Friday he has received no response to his letter to Harrington.

'Jefferson said he was particularly concerned about a federal informant under the protection of the U.S. Marshals Service seemingly being given immunity against prosecution for alleged crimes against Huntsville victims.

Abate was placed under the Justice Department's witness security program at his own request several years ago, claiming he feared for his own life because of his knowledge about the Blackfriars Pub massacre in Boston, according to Massachusetts sources.

He told federal authorities he was present when the owner of the pub and several others were murdered "gangland style" by gunmen. Abate, who knew the victims, said he also knew the identity of the gunmen.

In exchange for providing him protection and a new identity, he agreed to turn federal informant and to cooperate with authorities in providing information on organized crime connections.

THURSDAY, JULY 3, 1980 The Huntsville Times

Attorney Claims Federal Coverup In Abate Case

By JACK HARTSFIELD
Times Staff Writer

The U.S. Attorney's Office in Boston has been accused of withholding from a federal jury information about the troubles of Peter Abate, the federal informant who has been named in civil and criminal proceedings in Huntsville.

The charges were leveled Tuesday before U.S. District Court Judge John J. McNaught in Boston by attorney Frank G. Kelleher, defense counsel for Small Business Administration official Anthony F. Previte.

Kelleher claims that federal officials have protected Abate against court action here so they could use the federal informant to testify against Previte, a Boston-based SBA official.

Previte was sentenced to one year in federal prison by McNaught Tuesday on convictions of two counts of conspiracy to accept bribes to approve SBA loans.

McNaught, however, postponed a date for Previte to begin serving the sentence pending Kelleher's appealing the conviction and sentence to the 1st U.S. Circuit Court of Appeals in Boston.

Abate, whose real name is Peter Aver, also testified earlier in the same trial that an aide to U.S. House Speaker Thomas P. "Tip" O'Neill Jr. hired him to burn a restaurant in Middleton, Mass. Aver claimed he was hired by James Rowan of Boston, O'Neill's longtime aide. Rowan denied Aver's charge.

Kelleher contended that Previte was wrongfully convicted based on the testimony and a tape recording alleging a conversation between Previte and Aver about arranging SBA loans.

Kelleher asked for the appeal, arguing that his client had been convicted based on Aver's assistance to the prosecution, but that the jury did not know and had a right to know that criminal charges had also been filed against Aver in Huntsville.

Kelleher, in announcing his intention to appeal, told the court that Aver allegedly had "swindled" a Huntsville woman, Susan Boda, out of a $70,000 ring and that a criminal warrant had been issued in Alabama for Aver's arrest.

Kelleher told the court also that Aver had allegedly "swindled" a bank in Huntsville in connection with a $19,000 loan involving the purchase of a Mercedes.

The lawyer charged that U.S. Attorney Ted Harrington in Boston had withheld the information from him about Aver's difficulties in Alabama.

He also alleged that Aver, living under the name of Abate in Huntsville last year, claimed to be a millionaire by virtue of "an Italian family" in Massachusetts and had claimed he was worth $12.5 million.

Federal prosecutors had charged that Previte accepted bribes totaling $5,000 from Abate to approve a $170,000 SBA loan and a $100,000 SBA loan.

While Aver lived in Huntsville last year under the assumed name of

Abate, he was under the protection of the U.S. Justice Department's witness security program while operating as a federal informant. He disappeared from Huntsville last September.

Madison County Assistant District Attorney Thomas Jefferson wrote the U.S. Attorney's Office in Boston recently warning that unless Abate makes restitution to his alleged victims here, a county grand jury indictment will be sought July 7 with the intention of extraditing him back to Alabama.

Officials at the headquarters for the witness security program in McLean, Va., however, have written a local lawyer in Huntsville that Abate vanished after testifying in the Previte case in Boston and that "his present whereabouts are unknown."

Harrington refused comment in Boston on whether the government will try to use Aver in three other pending criminal cases.

Previte was the sixth person to either be convicted or to plead guilty in cases where Aver testified as a federal informant against them.

Ex-DA Simpson Didn't Extradite Informant Abate, Document Shows

By JACK HARTSFIELD
Times Staff Writer

APR 21 1981

Former Madison County District Attorney Fred Simpson was asked by the federal government not to pursue extradition of federal informant Peter Abate from Florida on criminal charges in Huntsville, according to a court document.

The document was introduced as evidence Monday in the Jacksonville, Fla., fraud trials of Jacksonville lawyer Harold Haimowitz and Charles Jones, a state food inspector.

Lawyer Lacey Mahon, counsel for Haimowitz, has attempted to discredit Abate's testimony about his dealings with Haimowitz and Jones, both accused of defrauding a Boston seafood company out of a $14,600 lobster shipment.

U.S. Attorney Gary Betz attempted to offset the defense attack on Abate's credibility by introducing video tapes, cassette recordings and still photographs showing dealings between Abate and Jones.

Abate, who used the name Abbott in Jacksonville, operated Abbott's Restaurant and Lounge as a "sting" operation for the FBI, according to testimony.

Mahon is contending in the jury trial that Abate was allegedly allowed to commit serious offenses with promises of immunity while in the U.S. Marshals Service's witness protection program.

In the document entered as evidence Monday, U.S. Attorney Edward F. Harrington of Boston, who organized the witness protection program in 1970, asked for Simpson's cooperation in protecting Abate from prosecution in Huntsville.

Harrington referred to Abate as an "important cog in an on-going undercover operation" for the FBI at an undisclosed location. The letter was dated April 28,

Any arrest of Abate at this location will disrupt this operation and render Abate ineffective as far as his future value to the bureau is concerned," Harrington wrote Simpson.

Abate was later arrested in Jacksonville on a criminal charge brought by Susan Boda and John

Gann of Huntsville. His arrest resulted from a coordinated effort by the Alabama Bureau of Investigation and Jacksonville police.

Abate, however, was immediately released when Simpson told Jacksonville authorities he did not intend to have the man extradited.

Abate told the jury Monday that he had asked Harrington to write a letter to Huntsville to try to prevent any possible extradition and that Harrington agreed to do so.

Mrs. Boda, Gann and Huntsville attorney Allen Brinkley also testified as defense witnesses on subpoenas from Haimowitz' attorney.

Mrs. Boda, calling Abate a "pathological liar," told the jury about her futile attempts to regain a $65,000 diamond ring that Abate had been holding as collateral against a $14,000 loan.

Abate, she said, vanished from Alabama with the ring, making it impossible for her to recover it. She said the U.S. Marshals Service informed her they did not know of the informant's whereabouts at a time when he was testifying as an informant in Boston and was flanked by deputy marshals.

Gann testified that his dealings with Abate, whom he once considered a friend, caused him serious financial injury in their association in Young America Land Development Co.

Gann claimed Abate left him holding the bag on a $340,000 business loan and a $50,000 home loan. "It cost me heavily in my business, and I lost my home," Gann told the jury.

Gann said he became seriously concerned when he discovered that Abate was a federal agent "with a mysterious background."

Brinkley, the Huntsville lawyer who drew up a will for a man calling himself Angelo Blasi — leaving millions to his heir, Peter Abate — also took the stand to challenge Abate's credibility.

Brinkley, who said he "absolutely would not" believe Abate under oath, was not allowed to testify about the will. Associates of Brinkley had claimed Abate had posed as his own stepfather in preparing the will.

June 15, 1980

Grand Jury Indictments Seen In Continuing Abate Dispute

By JACK HARTSFIELD
Times Staff Writer

A county grand jury indictment will be sought against federal informant Peter Abate next month alleging false pretense and felony embezzlement unless he makes restitution to his alleged victims here before July 7.

Thomas K. Jefferson, an assistant to Madison County District Attorney Fred Simpson, has written U.S. Attorney Edward F. Harrington in Boston on the pending action. Harrington is Abate's principal control officer.

Abate, 35, whose real name is Peter Aver, was placed in Huntsville under his assumed name by the U.S. Marshals Service's witness protection program. He disappeared last September after becoming embroiled in questionable business dealings here.

Abate is cooperating with Harrington's office in Boston involving at least two "major political corruption cases" tied to FBI operations, but Boston officials have declined comment thus far on what those cases involve.

However, Aver is testifying in the Boston bribery trial of Anthony F. Previte of Salem, N.H., a U.S. Small Business administration official charged with accepting bribes in arranging SBA-guaranteed loans.

Earlier in the same trial, Aver also testified in U.S. District Court that an aide to U.S. House Speaker Thomas P. "Tip" O'Neill Jr., hired him to burn a restaurant in Middleton, Mass.

Aver claimed that he was hired by James Rowan of Boston, O'Neill's long-time aide, to burn the Middleton restaurant and that the plan was carried through. Rowan flatly denied Aver's charge.

In another development, one of the alleged Huntsville victims has appealed for assistance from President Carter, Speaker O'Neill (D-Mass), Sen. Edward Kennedy (D-Mass); Alabama Sens. Howell Heflin and Donald Stewart, Rep. Peter Rodino, (D-NJ); and Rep. Ronnie Flippo, (D-Ala).

Heflin is chairman of the Senate ethics committee; Kennedy, chairman of the Senate judiciary committee; and Rodino, chairman of the House judiciary committee.

Susan Boda, a Huntsville busineswoman who claimed Abate vanished with her $70,000 diamond ring while he was supposed to be holding it as collateral against a personal loan to her, wants Carter and others to pressure the Justice Department for either Abate's return to Alabama or the return of the ring.

Aver has already been charged here with a felony alleging illegal conversion of the ring belonging to Ms. Boda. He is also charged with felony embezzlement involving funds belonging to Young America Land Development Co. here.

In addition, civil actions have also been filed against Aver. They include a $1.4 million damage suit by Huntsville businessman John G. Gann; a $140,000 damage suit by Ms. Boda; and a $56,000 damage suit by the Bank of Huntsville involving a promissory note.

Officials said while two felony arrest warrants have already been issued here for Abate, the possible grand jury indictments are being considered to ease expected difficulties if Abate chooses to fight extradition to Alabama.

"If those persons do appear before the grand jury and Abate is indicted, this office will extradite and prosecute," Jefferson wrote Harrington.

Jefferson said in the letter that he had conferred with Abate's Alabama attorney, William Dawson of Birmingham, at Harrington's suggestion, but that "nothing was really accomplished in that conversation."

"I have carefully investigated the allegations made by John G. Gann against Mr. Abate," Jefferson wrote Harrington. "Suffice it to say that Abate is clearly subject to being prosecuted in this jurisdiction for embezzlement and obtaining money by false pretenses..."

"As you know, this office is faced with a dilemma. On the one hand, we are certainly obliged to prosecute Abate if, in fact, he has committed any criminal offense in this jurisdiction.

"On the other hand, you have requested our cooperation for reasons outlined in your letter..."

Harrington requested "cooperation" from Simpson's office regarding Abate's Huntsville difficulties more than a month ago, citing the organized crime informant's importance in ongoing investigations.

Jefferson said Friday that he is particularly concerned about a federal informant under the protection of the U.S. Marshals Service seemingly being given immunity against prosecution for alleged crimes against Huntsville victims.

Ms. Boda, in her appeal to Carter and selected U.S. senators and representatives, claimed Abate initiated "questionable financial transactions" in excess of $500,000 while living in Huntsville.

"Auer/Aver/Abate — or whatever the man's name is — was placed in Huntsville by the United States Department of Justice witness protection program; and, while under the direct supervision of a U.S. marshal, he passed himself off as a retired FBI agent and venture capitalist about to inherit approximately $12 million," Ms. Boda wrote Carter and the others.

"Central to this entire issue is the Justice Department and U.S. attorney in Massachusetts allowing a convicted criminal to inform on his partners in crime and — at the expense of taxpayers — be provided a cover enabling the continuation of his criminal activities free from prosecution," she wrote.

"Abate regularly telephones individuals in Huntsville to inform us the U.S. attorney in Massachusetts is providing him total immunity and will ignore all charges — criminal as well as civil," she wrote Carter and the others. "All combined, they are successfully mocking the legal and judicial systems.

"As an individual, I want that to which I am legally entitled returned to me," she said. "Furthermore, I am appalled at the immunity security racket I am observing."

Aver, given the name Abate, was placed under the Justice Department's witness security program at his own request several years ago, claiming he feared for his own life because of his knowledge about the Blackfriars Pub massacre in Boston, according to Massachusetts sources.

Aver told federal authorities he was present when the owner of the pub and four others were murdered "gangland style" by gunmen. Aver, who knew the victims, said he also knew the identity of the gunmen.

In exchange for providing him protection and a new identity, Aver agreed to turn federal informant and to cooperate with authorities in providing information on organized crime connections.

U.S. Department of Justice

GS:CLV:mkm

Susan Boda
2225 Golf Road, Apt. #517
Huntsville, Alabama 35802

8 JUL 1980

Dear Ms. Boda:

I have received a copy of your letter to the President regarding Peter Abate.

Please be advised that it is the policy of the Department of Justice to cooperate to the extent appropriate in prosecutions which involve federally protected witnesses.

Should you have any further inquiries regarding this matter, please do not hesitate to contact this office.

Sincerely,

Gerald Shur, Associate Director
Office of Enforcement Operations
Criminal Division

United States Department of Justice

UNITED STATES ATTORNEY
1107 J. W. McCORMACK POST OFFICE & COURTHOUSE
BOSTON, MASSACHUSETTS 02109

ADDRESS REPLY TO
UNITED STATES ATTORNEY
AND REFER TO INITIALS

ADR:pm

July 7, 1980

Ms. Susan Boda
2225 Golf Road
Huntsville, Alabama 35082

Dear Ms. Boda:

Mr. Harrington has asked the undersigned to respond to your letter of July 2, 1980 with regard to Peter Abate. Mr. Abate is no longer in the Witness Protection Program, and neither he nor the Department of Justice has authorized this office to accept service of, or to serve, such court orders.

Sincerely yours,

EDWARD F. HARRINGTON
United States Attorney

By Alan D. Rose

ALAN D. ROSE
Assistant U. S. Attorney

July 11, 1980 telephone conversation between Susan Boda in Huntsville, Alabama and Gerald Shur of the Justice Department in Washington, D. C. Susan Boda initiated the telephone conversation about Peter Abate. The first part of the conversation did not record properly.

Boda: . . . I don't know if he (Abate) has been recently removed (from the Witness Protection Program), or what, but there seems to be a difference of opinion. He has some property of mine. He has a diamond ring that belongs to me and I have a signed order by the Judge. I also have a Warrant for his arrest . . . a criminal warrant for his arrest which was signed by another Judge here in Madison County. I would like to know why I cannot get the Marshals Service to serve him when he has been testifying in open court up in Boston? Why I can't get my ring back when . . .

Shur: I don't know why you can't get your ring back, but let me tell you this, though . . . your District Attorney . . . we have written to him also . . .

Boda: Um hmm.

Shur: And, let me assure you . . .

Boda: When did you write to him?

Shur: The same day, or the day before . . . about the same time that we had received an inquiry from both of you. Our position is . . . I can't tell you whether this man is, or isn't a witness in the Program, because I can't say that . . . but, I can say this to you . . . that anyone who is a witness in the Program is expected to meet their obligations. And, if there are criminal charges brought and extradiction is sought, then we not only don't stand in the way, we cooperate in every way possible.

Boda: What about civil charges?

Shur: We expect civil obligations to be met also.

Boda: Because I have a signed order from the Judge.

Shur: Yeah, we expect civil obligations to be met. And, the one thing I don't want to see people do is to use this Program as a shield from lawful obligations. That's not the intent of the Program and we're not about to get duped along with you in this thing. If we're both getting duped, that's not going to happen.

Boda: Now, if there is a problem locally, and for whatever reason the District Attorney would prefer not to prosecute, it also can go through the State, right? If the Governor wants to request extradiction, he can . . .

Shur: I don't know about your State law, I don't know how that works. If extradiction is requested, we will cooperate. If extradiction is not requested, there is nothing we can do about it.

Boda: I understand that. Now, what about civil charges where the Marshals Service has delivered documents to him and then he has been informed of things and he has received . . . we have signed affidavits saying that he has received copies of the Orders of Judgement, but he has still ignored them. Then, what do we do?

Shur: Does he have counsel locally?

Boda: Yes, they sent some guy by the name of John Evans who is associated with the Justice Department and also . . .

Shur: To do what? What was he doing?

Boda: Wait a minute. He also has an office in Miami and he supposedly came up here to negotiate with people.

Shur: No. He's a government attorney.

Boda: Well, he's been up here negotiating with individuals and . . . he brought a lawyer from Birmingham and they negotiated with individuals.

Shur: O.K. Now, the attorney from Birmingham . . . is that the guy who represents the witness?

Boda: He has in the past. But you see, this man has repeatedly promised to return my ring, but he has not.

Shur: Right. How does it stand now? Is your attorney dealing with his attorney?

Boda: He can't get him to return the calls.

Shur: He can't get him to return the calls.

Boda: Right.

Shur: I see. O.K.

Boda: And, that's Bill Dawson.

Shur: Could you do this? Could you have your attorney send to me . . . write to me just a brief narrative about it . . . and, send to me what papers have been forwarded and what dealings have gone on with Evans. I don't know about that.

Boda: Well, he hasn't had any dealings with Evans; he's just attempted to deal with a man by the name of Bill Dawson who's down in Birmingham.

Shur: Do you know whether, or not, there will be an indictment?

Boda: No. In fact, that's what Mr. Evans was up here last week to do . . . was to try to forestall that. But, Mr. Evans, for some reason, ignored going to see my attorney.

Shur: Why is he trying to forestall that?

Boda: I don't know. I haven't talked to Mr. Evans.

Shur: Have you talked to the District Attorney?

Boda: I have not talked to the District Attorney personally.

Shur: You can tell your attorney that as far as we're concerned, that if an indictment is to be forthcoming, no member of this Department ought to be intruding on that. If there's a criminal violation, and the man should be properly charged, then he ought to be charged. I can't tell you whether there's a violation, or not,

Boda: That I realize. Now, let me ask you this: what about civil problems? Will your office get involved in civil obligations?

Shur: The Marshals handle that and that's a more difficult situation. My understanding is now, that you have turned property over . . . you have a Judgement?

Boda: I have a Judgement, yes. I would be more than happy to get copies of all these documents to you.

Shur: Some of it, frankly, I am aware of, but I'm not aware of the total picture.

Boda: Well, I'll get the total picture to you.

Shur: And, my position has been that people shouldn't be using the Program as a shield . .

Boda: Well, this man sorely took advantage . . . of a situation . . . in fact, we . . . I am in possession of a memo that was written on Justice Department stationery and I'll send you a copy of that also . . . it's dated March 7, 1979 and it's on Justice Department stationery out of Birmingham and it says: To Whom It May Concern; This is to certify that Peter R. Abate is now and for the past ten years employed by the United States Department of Justice . . .

Shur: I would like a copy of that.

Boda: Let me finish, please. Any further inquiry regarding the employment of Mr. Abate should be directed to the undersigned at the address indicated. And, it's signed by a Richard Bigelow, Deputy Superintendent, United States Department of Justice; P. O. Box 352, Boston, Massachusetts . . . out of Birmingham . . . letterhead.

Shur: Huh?!

Boda: He was flashing that around.

Shur: Let me have a copy of that.

Boda: I certainly shall.

Shur: I don't know how to encourage you, but let me tell you, as far as I'm concerned, this is the Department of Justice and that word 'justice' means a whole lot to me.

Boda: Mr. Shur, I am of the opinion right at the moment . . . what I have observed over the last year, unfortunately, has been 'avoidance of justice'. Using the Justice Department to do whatever you wish.

Shur: Well, let's see if we can put a stop to all this nonsense. Let me give you an address . . . Do you have my address on there? Do you have a pencil handy?

Boda: Yes.

Shur: P. O. Box 7600, Ben Franklin Station, Washington, D. C.

Boda: O.K., bye.

Shur: Bye.

August 6, 1980

City Fugitive Arrested, Released in Florida

By JACK HARTSFIELD
Times Staff Writer

Peter Abate, the 37-year-old federal informant on organized crime who disappeared from Huntsville last year, was arrested on a fugitive warrant in Florida Monday, but was released when officials there were told that the district attorney's office here would not have him extradited.

Assistant state prosecutors Don Valesca and Roy Miller, aides to Alabama Attorney General Charles Graddick, said today they were looking into the circumstances under which Abate was released in Jacksonville.

"There is nothing strange about it at all," Thomas Jefferson, an assistant prosecutor on District Attorney Fred Simpson's staff, said here today. Jefferson said that one of the felony warrants issued by a judge here was "fatally defective." In the case of the other warrant, there was simply no prosecutable criminal case, he said.

"We welcome the Attorney General's Office looking into the circumstances," he said.

Investigators of the Alabama Bureau of Investigation have been looking into the circumstances leading to the two felony charges against Abate in Huntsville and three civil suits here claiming damages totaling more than $1.6 million.

The accusations against Abate — whose legal name is Peter Aver — stem from his alleged business dealings while living here under the federal government's witness protection program.

Miller said Graddick's office is particularly concerned about what appeared to be a strong effort by the U.S. Justice Department's witness program to prevent informants such as Abate being brought into court to face criminal charges.

Jefferson denied that the district attorney's office here is in any way cooperating with federal authorities to protect Abate from prosecution.

Abate's whereabouts are again unknown after his release from the Jacksonville City Jail.

Until Monday, Abate, who recently testified as a federal informant in Boston in a case involving alleged incidents of political corruption, payoffs and links to organized crime, had not surfaced except to appear in court.

He vanished after testifying in U.S. District Court in Boston several months ago. That trial led to the conviction of a high-ranking Small Business Administration official, Anthony Previte, for allegedly taking bribes to approve SBA loans. Previte is appealing the felony conviction.

The Justice Department claimed that Abate was removed from the witness protection program administered by the U.S. Marshal's Service at the end of the Previte case and relocated elsewhere in the country.

Alabama state investigators had been searching for Abate's whereabouts, but federal authorities had refused to divulge that information, citing policies of the super-sensitive witness program.

Lt. Don Nelson, commander of the Jacksonville Police Department intelligence division, said Abate was found to be a fugitive from justice when he applied for a restaurant license.

Intelligence officers of the Alabama Bureau of Investigation had sought cooperation from Nelson after learning that Abate was living in Jacksonville.

Copies of felony warrants from Huntsville were forwarded to Nelson by state investigators, along with a *Huntsville Times* story on Abate that included a photograph.

Nelson said he had become suspicious of the new Jacksonville resident some time earlier in his routine duties as an intelligence officer, but declined to elaborate.

He said he took Abate into custody at 5:35 p.m. Monday on the two felony warrants, one by Susan Boda alleging Abate's illegally leaving the state with her $70,000 ring, and a second by Huntsville businessman John Gann alleging embezzlement of funds from Young America Land Development Co.

"I contacted the Madison County District Attorney's Office and talked with a Mr. Tom Jefferson and told him I was holding Abate on the two warrants and what did they want to do," Nelson said.

He said Jefferson told him he would not seek Abate's extradition to Alabama.

Abate was then released from the Jacksonville jail without having to post bond.

Jacksonville police records showed that Abate had been using the alias Abbott.

"I don't know where he may be now," Nelson said.

"There is no way I can judge the validity of the two charges against Abate at this time," said Miller in Montgomery.

"But what we in the state attorney general's office are concerned about is, it appears some persons on the witness protection program are being allowed to rape and rip off communities in which they have been placed by the U.S. Justice Department," he said.

Jefferson said that since one of the warrants was, on its face, "fatally defective" and the second did not involve an actual criminal case, he had told both Ms. Boda and Gann that they could appear before the Madison County Grand Jury if they wished.

Jefferson said Gann declined the offer and that Ms. Boda's attorney, James Smith, had asked that her appearance before the grand jury be postponed so that additional information could be gathered.

"They haven't gathered any additional evidence," Jefferson said.

Abate, or Aver, was placed on the federal government's witness program several years ago after telling FBI agents he feared for his life because of his knowledge of the Blackfriars Pub massacre in Boston in which several persons were slaughtered in what is commonly called gangland style.

Abate, who has spent most of his life on the fringes of organized crime, agreed to become a federal informant in return for the government's assistance in relocating him and giving him a new identity.

U.S. Department of Justice
United States Marshals Service

One Tysons Corner Center
McLean, Virginia 22102

MOW

27 AUG 1980

Mr. James B. Schrimsher
Morring & Schrimsher
Attorneys at Law
401 Franklin Street, S.E.
P.O. Box 414
Huntsville, Alabama 35804

Dear Mr. Schrimsher:

We are responding to your request of July 24, 1980, to serve summons and complaint on Mr. Peter Abate.

He has been served process as set forth in the accompanying Affidavit. The Affidavit is provided in lieu of the usual United States Marshals Return for security reasons and should be filed with the Court.

If we may be of further service, please advise.

Sincerely,

Robert A. O'Connell

HOWARD SAFIR
Chief
Witness Security

Enclosures

IN THE CIRCUIT COURT FOR MADISON COUNTY, ALABAMA

THE BANK OF HUNTSVILLE,
A State Banking Corporation

Plaintiff

vs.

PETER ABATE

Defendant

CIVIL ACTION NO.
CV 80-488Y

AFFIDAVIT

I, Robert A. O'Connell, of full age, being
ROBERT A. O'CONNELL

first duly sworn according to law, do depose and say that:

1) I am the Assistant Chief, Witness Security Division, United States Marshals Service, U.S. Department of Justice, Washington, D.C.

2) As Assistant Chief of the Witness Security Division, I am responsible for the administration of the activities of the United States Marshals Service in the U.S. Department of Justice Witness Protection Program.

3) To the best of my knowledge and belief, Peter Abate was served with Motion for Order Allowing Special Service of Process, Summons, Complaint, and Collateral Note and Security Agreement issued at the request of plaintiff in the above-captioned case. Mr. Abate was served by a duly-appointed Deputy United States Marshal who personally delivered the process to Mr. Abate at 1:00 p.m. on August 12, 1980.

Robert A. O'Connell
ROBERT A. O'CONNELL

Subscribed and Sworn to Before
me, a Notary Public of the
State of Virginia, this
27th day of August 1980.

Notary Public
My Commission Expires:

U.S. Department of Justice

United States Marshals Service

ML

One Tysons Corner Center
McLean, Virginia 22102

JAN 20 19[illegible]

Honorable Jeremiah Denton
United States Senate
One Court Square
Suite 116
Montgomery, Alabama 36104

Re: Susan Boda

Dear Senator Denton:

Your letter of October 27, 1981 transmitting correspondence from your constituent, Susan Boda, was referred to this office on January 5, 1982 for response. It appears that you received an interim response from Mr. William Tyson, Director, Executive Office for United States Attorneys, on or about December 11, 1981.

The Marshals Service is very familiar with Ms. Boda's complaints arising from her business relationship with Peter Abbott, a former participant in the Witness Protection Program. As you may know, Ms. Boda recently filed a civil action against the United States in United States District Court in Birmingham, Alabama, seeking substantial compensation from the Government as a result of the loss she allegedly suffered as a consequence of her business dealings with Peter Abbott. As part of the relief sought in the lawsuit, Ms. Boda has made demand for the return of her diamond ring.

As a consequence of this and prior correspondence from Ms. Boda, the Marshals Service has carefully reviewed the matter. Our review has indicated that we have no present or past knowledge as to the whereabouts of Ms. Boda's ring or of any transaction between Ms. Boda and Mr. Abbott involving her ring. This appears to have been a private matter strictly between those parties. Furthermore, Marshals Service personnel who had contact with Mr. Abbott during the period of his participation in the Witness Protection Program have stated that they have no knowledge pertaining to the whereabouts of Ms. Boda's diamond ring or to any such transaction. Although Ms. Boda has stated that she has been informed by a former Department of Justice prosecutor that her diamond ring is in the custody of the Federal Government, the Marshals Service is not aware of this being the case.

Ms. Boda also states in her letter that the Marshals Service could not locate Mr. Abbott, "even when Mr. Abbott was testifying in open court in Boston where he was flanked by U.S. Marshals". Ms. Boda is confused. Mr. Abbott was a participant in the Federal Witness Protection Program from October 1978 to December 1979. However, in early January, 1980, Mr. Abbott was terminated from the Program at his own request. While our review of records and files confirms the fact that Ms. Boda requested that the Marshals Service serve Abbott with legal process in May or June, 1980, Ms. Boda was informed at that time that the Marshals Service could then no longer locate Mr. Abbott because we had lost contact with him. This was true because Mr. Abbott was then no longer a participant in the Program, and the Marshals Service did not in fact have any knowledge as to Abbott's whereabouts at that time. Our records reveal that the last time the Marshals Service provided physical protection to Abbott was in Boston in January, 1980, immediately prior to Abbott's requested termination from the Program. Hence, Ms. Boda's statement is inaccurate. Furthermore, contrary to Ms. Boda's assertion, Mr. Abbott was not in the Program at the time of the "sting" operation in Jacksonville, Florida, nor was the Marshals Service involved in that operation.

In conclusion, while we are sympathetic to Ms. Boda's situation, the Service has no information pertaining to the whereabouts of her diamond ring, and was neither involved in nor responsible for any transactions pertaining to said ring. Nor did the Marshals Service mislead Ms. Boda when she was informed that the Service had no knowledge as to Abbott's whereabouts in May and June, 1980.

We hope the foregoing has been helpful. If you have any questions pertaining to this matter, please feel free to phone me or Linda Reiman, Associate Legal Counsel, at (703) 285-1115.

Sincerely,

GERALD M. AUERBACH
General Counsel

June 18, 1982

Jack Hartsfield
414 I Chateau Drive SW
Huntsville, Ala. 35807
Office: (205) 532-4407
Home: (205) 883-7251

The Honorable Thad Cochran
U.S. Senator, Mississippi
ATTN: June Walton, Room 331
Russell B. Long Senate Office Building
Washington, D.C. 20510

Sir:

Regarding your request that I provide a statement on the U.S. Marshals Service witness protection program, I would, at the outset, want to make one point perfectly clear.

I am not opposed to the government's witness protection program, but I am increasingly concerned over what may well be gross abuses within the program. How deep those abuses run, and how many of the several thousand witnesses on the program are involved, I do not know.

With the growing and powerful corrupting influences of organized crime in this country and abroad, and in light of the fact that organized crime now ranks as the second most lucrative business in the United States, just slightly behind the petroleum industry, it is at best naive to think that conventional law enforcement methods of the past would be an effective combatant.

Bluntly, you can't fight organized crime using choir boys. Hence, the very reason for the existence of the witness protection program involving, in most cases, convicted felons with links to organized crime who agree to cooperate in exchange for either immunity, protection or new identities.

But I do become concerned when I see what I perceive to be blatent and outrageous con games ripping off the corner butcher, baker and candlestick maker and an assortment of hangers-on. The difficulty, of course, is in deciphering who conned whom. Who is innocent, half-innocent or somewhere in between. There appear to be few white hats and black hats. Only what seems to be a sea of gray hats.

Frankly, I was amused when I was informed that you intended to conduct a full day of hearings in Jackson on the witness protection program. If you honestly think listening to eight hours or so of details about the witness protection program will provide an adequate grasp, then I am afraid you are sadly mistaken.

It would be akin to trying to print the entire text of "Gone With the Wind" on a post card.

My most extensive experience with the witness protection program, however, deals primarily with one individual, Peter R. Auer and Peter R. Aver of Boston, Peter R. Abate of Huntsville, Peter R. Abbott of Jacksonville, Fla., Peter R. Alcott of Melrose, Mass., and Peter R. Ludwig of New Hampshire.

They are all one and the same man and, I suspect, represent only a few of his aliases.

As a newsman, I first became aware of Abate in the early fall of 1979 when my ex-wife, through an acquaintance, mentioned this character having "troubles" with Huntsville realtor John Gann. His name was Abbott or Abate and he was running around town telling folks he was an ex-CIA agent, an ex-FBI agent and an assortment of other retired professions.

It would be several months later before more of it began to come to light. There were complaints of ripoffs; quietly voiced complaints in chosen circles by bankers and businessmen about Abate getting loans without collateral. Then his disappearance from Huntsville. You see, Abate had passed himself off to be a Boston area resident about to become a multi-millionaire from the estate of his stepfather, Angelo Blasi. Checks seemed to verify that indeed Abate was about to become a multimillionaire. Bankers wanted his money in their banks in Huntsville and they courted him accordingly.

Even more incongruous, Abate used as a reference his control officer, Deputy U.S. Marshal Glenn Brooks. Odd in itself since he was to have vanished into Huntsville's woodworks upon arrival, under a new name and identity.

Brooks, aware of the rules of the program, tried to have Abate removed from witness protection because he said he feared Abate was ripping off folks around town. Brooks also later blew Abate's cover, resulting in the Marshals Service getting hopping mad, threatening to transfer Brooks elsewhere in the country.

Brooks quit. Abate survived on the program.

As an assortment of articles enclosed will attest, Abate quite quickly became hot property. He had quietly left town for Stone Mountain, Ga., and eventually to Jacksonville, Fla.

Within a number of months, he was busy running an FBI "sting" operation in Jacksonville, Fla., at Abbott's Restaurant and Lounge. Before the disclosure of the "sting," he was arrested by the Jacksonville intelligence unit in cooperation with the Alabama Bureau of Investigation on a criminal fraud warrant, but was promptly released.

The then Madison County, Ala., district attorney, Fred B Simpson, declined to seek his extradition, contending the warrant was faulty. Then later it became apparent that Simpson had been asked by then U.S. Attorney Ted Harrington in Boston not to press criminal charges against Abate because he was involved in a sensitive on-going investigation elsewhere in the country. That turned out, at least in part, to be Jacksonville, Fla.

Meanwhile, too, a civil damage suit brought against Abate by Huntsville businesswoman Susan Boda resulted in Madison County Circuit Court Judge S. A. (Bud) Watson issuing a default judgment awarding Ms. Boda $70,000 in damages from Abate plus the return of her $65,000 diamond heirloom ring used as collateral against a loan. Abate skipped town with the ring.

No collection has ever been made from Abate or, for that matter, any signal whatsoever that he intended to fulfill the order of the court.

Of course, the U.S. Marshals Service has claimed, from time to time, they did not know where Abate alias et al was located and hence could take no action. He supposedly was no longer on the program. At one instance, the U.S. Marshals Service in McLean, Va., said they did not know where he was when, at that same time, Abate was flanked by U.S. marshals in Boston where he was testifying as a government witness in another trial.

It is ironic that both Florida and Massachusetts pressed Abate to appear in court actions alleging wrongdoing on his part, but in Alabama, no one from the governor's office on down has taken a hard stand. In fact, the mode is more one of disinterest.

It is also interesting to note that the lawyer who introduced Ms. Boda to Abate in arranging a business deal involving a tee-shirt artwork business is now Madison County's district attorney, Robert (Bud) Cramer.

In the meantime I have watched from the sidelines as Ms. Boda has been bounced from one court to another, including federal courts, in an exasperating attempt to either have her ring returned or have Abate appear to explain himself. Neither has been to any avail to date, even though she has a judgment in hand.

Now I am in no omnipotent judicial position to judge precisely what occurred between Ms. Boda, Abate, a raft of lawyers and judges, not to mention her former lawyer, Cramer, who is now the district attorney.

But I do think it is fair to say that whatever the circumstances, Abate should face his accusers, albeit now only civil complaints, in Huntsville. That, however, appears as elusive as ever.

In choosing to pursue the matter, I have paid some heavy personal sacrifices. They are inconsequential in the name of greater good, in pursuit of the truth as a serious journalist. I would, however, do it all again.

Having somewhat of a grasp of the sensitive nature of the witness protection program, I can fully appreciate the difficulties in establishing new identities for individuals who have chosen to cooperate with authorities about their knowledge of organized crime.

Mr. Abate, however, may be an unusual exception. If, in fact, he was or still is operating at the "highest level of the U.S. government," as has been hinted by some, then so be it. But in establishing covers, often multiple covers, I have serious reservations where it appears some innocent people likely have been victimized and cheated of their money and possessions for the sake of establishing a foolproof cover.

If that has occurred, and there are indications in his case that it may very well have occurred, then it is contrary to the rights of the average American citizen to be set up, fleeced and left to walk the plank while the protected witness goes his merry way with impunity. If innocent people were involved with Abate, some satisfactory arrangements could have been made.

There are other cases of protected witnesses that I must admit carry far more weight than a woman losing a $65,000 ring in a business transaction. The Ruffaloe case in Kansas City is such an example: a woman losing her child to her divorced husband, a protected witness, who vanished without a trace and the U.S. Marshals Service refuses to disclose the whereabouts of either her ex-husband or her child. That has been an ongoing situation for not months, but years. The U.S. Marshals Service suggests she send birthday presents and Christmas presents to their offices in McLean, Va., and in turn, they will forward them to the proper location.

And a case in Birmingham in which a protected witness blew away several persons at a local bar, the circumstances of which only the U.S. Marshals Service is aware.

I have to believe that there are those on the witness protection program who have tried to live by the rules of the program, keeping their noses clean, trying to raise their families and attempting to make a new life for themselves in whatever jobs the government has been able to find for them.

It could be that the abuses of a few have given the entire program an odorous name. I do not know.

Contrary to some views, I am not among those lividly critical of Abscam and Mel Weinberg, the master con who concocted the fake Arab shieks with money to burn and which ultimately ensnared politicians. It is difficult to argue with video tapes showing folks stuffing money in their pockets.

And while it is a gray area, I, for one, do not subscribe to the defense theory of entrapment. Any of them could have walked away at any time. And all had the obligation to immediately report what they considered to be an out-and-out bribe or an attempted bribe. So I cannot work up much sympathy in that matter, other than to say it was unfortunate they took money, certainly appearing to violate their sacred public trust.

In recent years, the FBI, the CIA, other agencies have been the subject of congressional oversight committees. And in all likelihood there will be more such hearings.

It is appalling to continually follow the sagas of Frank Terpil and Ed Wilson, both former CIA men who apparently went to the world supermarkets to sell terrorist weapons to the likes of Idi Amin and Libya's Khadafy. Through the Leviticus Project, there were indirect links between Terpil and coal fraud schemes perpetrated in Fort Payne, Ala. That was obvious through conversations with Tom Krebs, executive director of the Alabama Securities Commission and the vice chairman of Leviticus. That, too, had indirect links with fugitive financier Robert Vesco.

Then to follow more closely only in recent months the fears that Libya might be rearming Argentina with a storehouse of deadly weapons. You can't rule out that America's own Terpil and Wilson may have aided at some point in those arms.

In the Terpil-Wilson case, it may very well be another case of a few rotten apples stinking up the entire barrel. I have to believe that there are honorable men within the CIA and within the FBI who find themselves swiped with a dirty paint brush not of their own choosing.

I want to believe that is also the case in the witness protection program and the black eyes the Marshals Service and the Department of Justice are getting from the public exposure of some.

But how is the public to judge?

I do not believe the witness protection program has ever undergone a congressional review, either publicly or secretly, since it was established in 1970.

If there is an overriding sensitivity about such hearings, then only those at the highest level of the U.S. government should make a decision why it should not be done at this time. And their decision must be a just one.

Some open explanation is due the public. If not now, then soon.

Respectfully:

Jack Hartsfield

Jack Hartsfield

Enc.: News articles

April 23, 1980

Criminal Case Is Filed Here Against Abate

By JACK HARTSFIELD
Times Staff Writer

A felony arrest warrant has been issued for former Huntsville resident Peter Abate, a federal informant with organized crime connections who left town last August after becoming embroiled in financial difficulties.

The warrant was issued this week by Madison County District Court Judge Dan McCoy after reviewing claims of Susan Boda. The Huntsville businesswoman alleged Abate disappeared with her $70,000 diamond ring. She said she had put up the ring as collateral against a loan by the man.

Abate, whose real name is Peter Aver, is currently under protection of the U.S. Marshals Service's witness security program at an undisclosed location. Sources said he has been cooperating with federal authorities concerning his knowledge of political corruption tied to organized crime on the East Coast.

McCoy set Abate's bond at $10,000 and ordered the warrant forwarded to the Marshals Service in McLean, Va., to be served by marshals on Abate wherever he is.

Abate has testified in at least two recent trials in Boston in cooperation with U.S. Attorney Ted Harrington. His last known address was Stone Mountain, Ga., although efforts to have him served directly with at least one civil damage suit there were unsuccessful.

Sources in Boston say Abate is still a key witness in at least two "major corruption cases," but declined to discuss details.

Abate, or Aver, faces a maximum of 10 years in prison if convicted of the felony offense involving alleged criminal intent to deprive Ms. Boda of her ring. She said she put it up as security against a $14,000 loan from him.

The warrant cites a law dealing with selling or absconding with securities or mortgaged property on which a lien exists. But in this particular case, the case deals with the ring as a security against the loan.

Spokesmen for the U.S. Marshals Service in Virginia have declined to acknowledge that Abate, or Aver, is a participant in the witness security program.

The spokesman, however, emphasized that federal marshals would see that any person on the program with a criminal charge lodged against him would be returned to the proper jurisdiction for trial if necessary.

If Abate is located outside of Alabama, the state involved would then issue a fugitive-from-justice warrant in lieu of serving him with the felony warrant issued here.

Abate could then attempt to fight extradition to Alabama. Gov. Fob James could become involved in requesting his extradition, although the governor where Abate resides would have to issue the extradition order.

McCoy, in issuing the arrest war-

rant for Abate, said there was ample evidence to indicate that the federal informant was intentionally hindering, delaying or trying to defraud Ms. Boda of her lawful claim for return of the ring.

Abate, in his only direct contact with *The Huntsville Times* several months ago, said he did not intend to obey a civil order to return and claimed he had done nothing wrong.

Circuit Judge S.A. "Bud" Watson had issued an order for Abate to appear here in the original civil case brought by Ms. Boda last October, in which she claimed he had wrongfully left the state with her ring while he was holding it as security against her loan.

When Abate did not appear for the hearing several weeks ago, Watson issued a default judgment against the man, ordering Abate to pay $70,000 in damages to Ms. Boda in addition to returning the $70,000 ring.

That action was followed by a $1.4-million civil damage suit against Abate by Huntsville Realtor John Gann. That case is still pending in the courts.

Gann claimed Abate had wrongfully taken money from various enterprises in which the two were involved and did not provide operating capital as he had agreed.

Among the companies in which Abate was locally involved with Gann were Young America Land Development Corp., John G. Gann & Co., Century 21 — John G. Gann Realty Inc. and Huntsville Insulation Co., the civil suit by Gann claims.

Abate was courted by local banks here last year seeking to have him invest large sums of money he said he was about to inherit from his late stepfather, Angelo Blasi of Melrose, Mass.

Abate produced a purported will for bank inspection, showing that he stood to inherit almost $12 million in a matter of weeks, authorities said. Gann, in his civil suit against Abate, countered that Abate allegedly knew the will was fake. Abate disappeared shortly thereafter.

Authorities, however, said a check at a major East Coast bank confirmed through an official that Blasi's banking records allegedly did show he was worth at least $12 million at the time of his death.

(NOTE: Additional material submitted for the record is retained in the subcommittee files.)

GOVERNMENT WITNESS

(EARL LEROY CASSELL)

Pascagoula

OWEN DAVIS CHIEF
R.H. MAXWELL MAJOR
W.H. POPE MAJOR
WAYNE HOWARD MAJOR

POLICE DEPARTMENT

P. O. BOX 577 • PASCAGOULA, MISSISSIPPI 39567

June 10, 1982

U. S. Senator Thad Cochran
United States Senate
321 Russell Building
Washington, D. C. 20510

ATTENTION: Mrs. Beverly Ward

Dear Mrs. Ward:

I am forwarding to you at your request a portion of the files on a W/M Earl Leroy Cassel. Mr. Cassel, a protected government witness, murdered a merchant in the city of Pascagoula on May 24, 1979. I am enclosing certain records to document this case. The entire case involves a massive amount of records and I do not feel it would be practical to forward all of these records on to you; however, I would be happy to furnish any of the additional information that you feel would be beneficial to you. I would also suggest that you contact the below-listed U. S. Attorney in Chicago as he is also familiar with the case and I believe would be a help to you. His name is:

James R. Streicker
Assistant U. S. Attorney
Northern District of Illinois
U. S. Court House
Chicago, Illinois 60604

I would also like to point out that throughout the long investigation of this very heinous crime, the lack of cooperation from various federal agencies was apparent. After my contact with Assistant U. S. Attorney Streicker, he interceded in our behalf and from that point on, we were able to obtain reasonable cooperation from the various federal agencies involved.

It is my overall feeling that the Witness Protection Program may have some useful purpose insofar as high-level government crimes are concerned; however, in my opinion the program is being abused to the point that local authorities investigating local cases simply do not get the cooperation they need in order to be able to solve their cases.

Thank you for your concern in this matter and if I can be of any additional service to you, please do not hesitate to call.

Sincerely,

A. G. Willis
Lt., Pascagoula Police Department

Pascagoula

OWEN DAVIS, CHIEF
B H MAXWELL, MAJOR
A H POPE, MAJOR
WAYNE HOWARD, MAJOR

POLICE DEPARTMENT

P. O. BOX 577 • PASCAGOULA, MISSISSIPPI 39567

June 25, 1982

Senator Thad Cochran
United States Senate
321 Russell Building
Washington, D. C. 20510

ATTENTION: Ms. June Walton

RE: 6-24-82: Problems encountered during Armed Robbery Murder Investigation involving W/M Earl Leroy Cassell, AKA: Earl Leroy McCabe, a U. S. Government Protected Witness

Dear Senator Cochran:

When W/M Earl Leroy McCabe was developed as the prime suspect, all attempts to get his true identity verified as being W/M Earl Leroy Cassell were resisted. Even after having obtained his FBI Number and Name from a Confidential Source, the FBI Fingerprint Section was unable to or would not release his rap sheet to me nor his fingerprints. After I obtained the name of the U. S. Attorney who prosecuted and was instrumental in having Cassell put into the Protected Witness Program, he contacted the head of the U. S. Marshall's Witness Security Program and told them to release all the requested information to me and also became very involved in the development of the investigation.

When a person is put in the Protected Witness Program, all records and history of the person is transferred to the U. S. Marshall's Witness Security Program. So, if a law enforcement agency develops a suspect who is in the program, and requests information from the FBI on the person under the program, they will not have any records on him.

When a person is put in the Witness Program and is relocated with a new identity to a new area, the Marshall assigned to assist him is not given any background or criminal history on this person. This is a handicap to the Marshall as he does not know what kind of person he is protecting. By this I mean the Marshall does not know if the person is a law-abiding citizen who testified for the U. S. Government, or a habitual criminal with a history of violence. Without this knowledge the Marshall does not know how much freedom to let the person have.

It would seem to me that if a person is put in the Witness Program and given new identity and released, that his new identity should be cross-referenced to his true identity and then the Marshall assigned to him could be contacted in the event that the person commits a criminal offense, and the Marshall could in turn contact the local law enforcement agency involved and assist them. It is very important to have access to fingerprints of suspects.

If prints are already on file with the FBI, then the law enforcement agency can send the Latent Print Evidence to the FBI Laboratory for comparison instead of jeopardizing their investigation by bringing in the suspect to print him without the required probable cause to do so.

I hope this information will be helpful in this investigation and I will be happy to cooperate in any way requested.

Sincerely,

A. G. Willis

Lt. A. G. Willis
Pascagoula Police Department
P. O. Box 577
Pascagoula, MS 39567

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant _____ Address _____ Phone No. _____

Rebel Package Store

Offense

murder-armed robbery

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.
(Investigating Officer must sign)

Page No. _____ Date 6-7-79 19___

W/M Earl Leroy McCabe's actual name is Earl Leroy Cassel.
Additional aliases are: Brian Cecil Foley, Earl L. Henderson.

FBI lab agent assigned to the case(27-79-3) and evidence is John Kilty, Lab Evidence file # 906-04041, phone # 202-324-4393.

(Note: During R/O's interview with Arlene McCabe, she made the statement about reading the victims' obituary in the paper and made reference to how many survivors he had. Also, how bad it must be on his (victim) survivors for him to die like that.)

@ 9:06 a.m., 6-7-79, spoke with John Hughes, 432-5722, U.S. Marshall. he advised:

1. McMurtrey gave McCabe the hand grenade box.
2. The last time McCabe was funded was 8-78 (he was cut off at this time)
3. He was receiving $819.00 per month, plus all medical bills paid.
4. 11-77 started funding in Mississippi.
5. Relocated from Milwaukee, Wisconsin to Mississippi 11-77.

---

1. Howard Safir, Chief of Witness Security Division with U.S. Marshall.
2. R/O needs to talk with Frank Leapley, FBI, to get him to release rap sheet to me. Leapley has to call Safir to authorize the release.

6-7-79 received information from Jake Gilliam, Ingalls Security, that the week of the murder McCabe drew his paycheck for the week of 5-20-79, Check was picked up week of 5-24-79 in amount of $169.21 net. Jake Gilliam

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY _____ DATE _____

27 CASE FILED: Yes ☐ No ☐ | 28 THIS CASE IS: Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY: H. E. L. Mills

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant _____ Address _____ Phone No. _____

Offense _____

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. 2 Date _____ 19___

is going to check and see where the check was cashed.

6-7-79 @ 11:20 a.m.

Jim Streiker, Assistant U.S. attorney, Chicago, IL, 312-353-3540, prosecuted case for the U.S. Government in which McCabe was one of the defendants.

1. Defendant #1 Earl Leroy Cassel, pled to two felony counts uttering forged U.S. postal money orders. U.S. Postal authorities was the agency.
2. Defendant #2 Timothy Fidler
3. Defendant #3 Kenneth Kutnyak.

Fidler and Kutnyak broke into a U.S. Post Office and stole U.S. Postal money orders and machine. Came to Chicago and met up with #1 and started writing and passing the stolen U.S. Postal Money Orders. #1 got probation on the two felony counts of uttering forged U.S. postal money orders and another felony count was dropped. Cassel was put into the protective witness classification by the U.S. Attorney's office, given a new identity and relocated. Assistant U.S. Attorney Jim Streiker told me that he was calling the appropriate authorities to release the true identity and rap sheet on McCabe to me and would call me on 6-8-79. Mr. Streiker is very much interested in the disposition in this case as he was the one who had McCabe put in the protective witness classification.

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY Lt. Willis DATE 6-7-79

27 CASE FILED Yes ☐ No ☐ | 28 THIS CASE IS Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY kmb Lt. W. F. Willis

Pascagoula

OWEN DAVIS CHIEF
R H MAXWELL MAJOR
W H POPE MAJOR
WAYNE HOWARD MAJOR

POLICE DEPARTMENT

P. O. BOX 577 • PASCAGOULA, MISSISSIPPI 39567

June 13, 1979

Chief Harold A. Breier
Milwaukee Police Department
749 W. State Street
Milwaukee, Wisconsin 53233

Dear Chief Breier:

Enclosed you will find a copy of the rap sheet of W/M Earl Leroy Cassel, your police file #81388, FBI #917 489 C. I am writing this letter to request from your department, under the act of congress, all of the charges that your department has against our suspect Earl Leroy Cassel.

Earl Leroy Cassel is a suspect of an armed robbery-murder of a Package Store attendant. The attendant was shot 12 times with a .22 caliber and .25 caliber weapon. At this time we are attempting to gather as much information on this subject as we intend to try him as a habitual offender.

Information requested: all charges and convictions, if there was a jury trial, verdict, if he pled - certified plea and sentence.

This information is of the utmost importance to our department and I would appreciate your earliest attention in this matter. If our department can ever be of assistance to you, please do not hesitate to call on me.

Sincerely,

Lt. A. G. Willis

Lieutenant A.G. Willis
Criminal Investigation Division
Pascagoula Police Department
P.O. Box 577
Pascagoula, MS 39567
601-762-2211

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant | Address | Phone No.

Pascagoula Police Dept.

Offense

murder - armed robbery

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. _____ Date 6-22-79 19__

On 6-21-79 R/O received a call from Sgt. Summerford, Zion, Illinois, (Zion Police Department). 312-872-8000, ext: 242

Sgt. Summerford inquired re: incarceration of W/M Earl Leroy McCabe, he advised R/O that they hold outstanding warrants on him for passing a stolen check out of Wisconsin there in Zion in the amount of $955.00. He advised that he had two dates of birth: 5-13-40 and 2-4-39. ssn: 390-38-1155. He further advised that he would be forwarding a certified copy of the warrant to our department. Lt. Willis has been advised. No further at this time.

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY Tony Best DATE 6-22-79

kmb

27 CASE FILED 28 THIS CASE IS 29 APPROVED BY

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant: REBEL PACKAGE STORE | Address | Phone No.

Offense: MURDER

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. _____ Date 6-4-79 19___

Spoke with U.S. Marshall Wayne McMurtrey, 872-1243, 1-432-5722, Biloxi, at 9:30 a.m. 6-4-79 in reference to W/M Earl Leroy McCabe. He is a relocated government witness under a new identity. FBI # 917 489 C, DOB 5-13-40.

Arlene McCabe, wife of Earl Leroy McCabe, claims she walked into the back room of the Rebel Package Store and victim was already dead. She claims she called her husband to the back room where the body was. Arlene McCabe and Earl Leroy McCabe are giving a statement to the U.S. Marshall at this time (9:32 a.m.). U.S. Marshall McMurtrey is calling Washington to get FBI number of McCabe (new identity given by government) and is going to call me back and also try to give me contents of their statements.

6-4-79 @9:40 a.m. called 1-202-324-2163, Charles Groenthal, FBI lab, Washington D.C., gave McCabe's FBI number to him.

1. Sam Peterson is McCabe's supervisor
2. Wayne McMurtrey, in charge of McCabe
3. Johnny Hughes, Dept. U.S. Marshall

~~have~~ love Amanda

Suspect has the following at his house:

1. carbine with clip
2. shotgun

Sam Peterson said that Earl McCabe said he would take polygraph on his statement. Arlene McCabe will lie to protect McCabe, but is the weak limb and will probably break under pressure. Need to mug and print her. A copy of the statement given to Sam Peterson will be mailed

INVESTIGATING OFFICER(S) _____ 76 REPORT MADE BY _____ DATE _____

ASE FILED: Yes ☐ No ☐ | 28 THIS CASE IS: Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant _____ Address _____ Phone No. _____

Offense REBEL PACKAGE STORE

MURDER

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. 2 Date 6-4-79 19___

to us. Suspect has 16 YOA son that has brain damage from recent accident. McMurtrey advised that McCabe is a professional witness.

6-4-79 W/M Earl Leroy McCabe, Dept. 15, badge 30891, West Bank, 2nd shift. ssn: 407-08-4034, hired 12-19-77, DOB 5-13-40. Warehouse clerk 1st.
address: Rt. 4 Box 234-C, Ocean Springs
P.O. Box Hurley
Deputy Sheriff lives next door to him in trailer (Robert Vice).
Mr. McCabe has agreed to take the polygraph on 6-6-79 @ 9 a.m.
W/F Arlene Marie McCabe, DOB 2-4-45, ssn: 460-41-1683, Rt. 1 Box 380, Lucedale, MS (Hurley), mother is Margaret Mang, runs Ye Old Lighthouse Realty. 932-2276, Gulfbreeze, FL
Their son: W/M Earl McCabe, Jr., Providence Hospital, Mobile AL (had brain surgery).

STIGATING OFFICER(S) Task force 26 REPORT MADE BY Lt. Jerry Willis DATE 6-4-79
kmb

FILED ☐ No ☐ | 28 THIS CASE IS Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

City of Milwaukee

Department of Police

Harold A. Breier
Chief of Police

Refer to: Dets. Morrow & Guy - Early Shift

December 4, 1981

Mr. Owen Davis, Chief of Police
Pascagoula Police Department
Pascagoula
Mississippi 39567

RE: Our Complaint #81-84280

Dear Chief Davis:

On Sunday, November 29, 1981, we arrested one Delores Mary MOILANEN, W/F, on: 11/5/44, for fraudulent use of a credit card and receiving stolen property. A check of the credit card revealed that the VISA cards, Gimbels credit card, and the driver's license which the subject was using for identification, were taken in a burglary at 2503 West Becher St., our city, on Sunday, November 8, 1981, our complaint #81-84280. The subject was conveyed to the Detective Bureau for questioning regarding her possession of these items.

At the Detective Bureau, while looking through Delores MOILANEN's purse, our officers found a handwritten letter which was written on the back of a "sick call report" which stated: "I want you to mail a 25 auto in a tape recorder, make sure that it's a kind of tape player that won't record and make sure the gun is taped down real tight. Also when you send the weed, see if you can put I.D. that would pass for me, picture I.D. Send the weed, money orders, and I.D. first. Then the recorder." Ms. MOILANEN stated that she had received that information from her brother who is presently serving time in your state for charges of Armed Robbery and Murder. She also had two (2) newspaper captions in her purse that indicated that a Mrs. Arlene MCCABE, 39, and her husband, Earl Leroy MCCABE, 39, (who she states that subject Earl Leroy MCCABE is her brother) were arrested in Jackson County, Mississippi, city of Pascagoula, for Armed Robbery in which a clerk at the Rebel Package Store was killed. The date on this caption was May 24; however, there is no year. She stated that her brother is presently serving time in a State of Mississippi prison and that he sent her the letter asking for the 25 automatic pistol concealed in a tape recorder to be sent to him sometime last year. She stated she did not send these items to her brother and has had no further correspondence with him.

It also indicated on the caption that the investigation regarding the homicide and robbery in Mississippi was conducted by a Lieutenant A. G. WILLIS and an investigator, Tony BEST, of your department. Therefore, please find enclosed with this letter the information that we found in Ms. MOILANEN's purse regarding Earl Leroy MCCABE's plan to escape from prison in your state. In addition, the newspaper captions and the letter found in Ms. MOILANEN's purse were placed on our Milwaukee Police Inventory #842333, and will be held by our department pending further disposition.

Assuring you of our cooperation in all matters of mutual concern, I remain

Yours truly,

HAROLD A. BREIER
CHIEF OF POLICE

Kenneth Hagopian

KENNETH J. HAGOPIAN
INSPECTOR OF DETECTIVES

PASCAGOULA POLICE DEPARTMENT
OFFENSE REPORT

STOLEN PROPERTY FILE | CLASSIFICATION OF CRIME | CASE FILE NUMBER: 47-79-3

COMPLAINANT

(1) Complainant's Name	(2) Complainant's Address	(3) Complainant's Phone No.
Pascagoula Police Dept.	Delmas Avenue	762-2211
(4) Race / (5) Sex / (6) Age / (7) D.O.B.	(8) Place Of Occurance: Rebel Package Store	(9) Business Phone No.
(10) Type Of Building: one story flat-top brick	(11) Date & Time Of Occurance: 5-24-79 approximately 8:00 p.m.	
(12) Date & Time Reported: 5-24-79 9:06 p.m.	(13) Officer(s) Assigned: Bulloch	(14) Beat No.
(15) Person Making Original Complaint: not available at this time	(16) Address: na	(17) Phone No.: na

CRIME

(18) Type of Crime: murder/armed robbery	(19) Type Area Where Offense Occured: commercial
(20) Describe Weapon or Force Used: believed to be 25 caliber automatic	(21) Cal. [ ]22 [ ]32 [ ]38 [ ]44 [ ]45 [ ]Unk [ ]Rev. [ ]Auto [ ]2" [ ]4" [ ]6" Gauge [ ]410 [ ]16 [ ]20 [ ]12
(22) Describe Type Vehicle Used (Year, Make, Model, Color, Tag No., Vin. No. If Available): late model dodge pick up truck possibly short wheel base with thin yellow	
(23) M. O. (Type Property Taken, Type of Entry, Type Instrument Used for Entry, etc.): money taken from cash register*	stripes on bottom of door, believed to be red in color
(24) What Suspect(s) Said (If Applicable to Crime): na	
(25) Victim's Activity Prior to Offense (If Applicable to Crime): working in the store	
(26) Bodily Injury to Victim (If Applicable to Crime): believed to have been shot six times with a small caliber	(27) Medical Attention (Hospital) [X]Yes [ ]No deceased
(28) Direction of Flight by Suspect(s): unk [ ]N [ ]E [ ]S [ ]W [ ]Auto [ ]Foot [ ]Unk [ ]Other	(29) Will Complaintant Prosecute: Yes
(30) Evidence Obtained at Scene: numerous fingerprints, photographs taken at the scene, physical evidence from body**	

WITNESS

(31) Witness to Offense	(32) Witness Address	(33) Race	(34) Sex	(35) Age	(36) Phone No.
being withheld at this time					
(37) Witness to Offense	(38) Witness Address	(39) Race	(40) Sex	(41) Age	(42) Phone No.

SUSPECT

(43) Suspect or Person Arrested (Name)	(44) Race	(45) Sex	(46) Age	(47) DOB	(48) Ht.	(49) Wt.	(50) Hair	(51) Eye color	(52) Arrested
unknown-description being withheld at this time.....									[ ]Yes [ ]No
(53) Address	(54) Clothing or Identifying Characteristics (Marks, Tattoos, Facial Hair, Etc.)								
(55) Suspect or Person Arrested (Name)	(56) Race	(57) Sex	(58) Age	(59) DOB	(60) Ht.	(61) Wt.	(62) Hair	(63) Eye color	(64) Arrested
possibly could have been a second person, unknown at this time.....									[ ]Yes [ ]No
(65) Address	(66) Clothing or Identifying Characteristics (Marks, Tattoos, Facial Hair, Etc.)								

PROPERTY

(67) Property Stolen (Description, Serial No. and Value)

*suspect believed to have taken the victim(attendant at the store) shot him and then emptied the cash register. property taken: $195.25 taken from register.***

Brief Summary of Offense (Use Supplementary Report)

**taken by Inv. Reels, Best, and Bulloch at the hospital.

***and possibly other personal items taken from victim, as they were missing from the scene. Victims' name: Edward Beaulieu, W/M, age 56, 1-11-23.

Summary: Subject called the station in reference to the Rebel Package store being closed at an early hour. Officer Tom Miletich, Pascagoula P.D. and C.W. McGrath, Alcohol Beverage Control, who were in the immediate area, checked the store and found that the victim had been shot and called for further assistance. Officer Bulloch, R/O, arrived shortly thereafter starting the investigation. Officers

Copies to Juvenile, Narcotic, Investigator, I.D.	Further Action Required	Typed By	Date & Time
Inv.	[X]Yes [ ]No	kmb	5-25-79
Reviewed By	Reporting Officer (Signature): Terry L. Bulloch		Date: 5-25-79

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant _____ Address _____ Phone No. _____

Offense _____

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. _____ Date _____ 19___

Note: additional information from item #26 on first page: Amserv arrived at 9:11 p.m. and an attendant was immediately rushed in at which time he advised there were no vital signs, (heartbeat or pulse) and at this time R/O made the decision not to move the body so as w e could gather the necessary evidence.

Rick John, Bill East started immediate search of the area for any tire marks and clues of any kind that were left in the area. However, none turned up. Inv. Best began interviewing persons in the area who possibly could have seen or heard anything. Officer Reels, I.D., was called to the store to accumulate any evidence that might be found in the store. Lt. Willis came to the scene to assist in the investigation. Also, Majors Howard and Maxwell assisted at the scene also. All patrol units under Captain Fulmer and Lt. Byrd assisted in the attempt to turn up any witnesses, suspects, and locating evidence. Several witnesses were located and names are being withheld at this time, giving information to help identify suspect(s) in the above named crime. There are several suspects being checked out at this time that are known by this department. A composite was done of a possible suspect by one of the witnesses by R/O and statement was taken. Description, composite and vehicle description was given out to all Miss counties and cities surrounding the Pascagoula area in addition to a state wide alert for vehicle in Miss, Alabama, and Louisiana.

Note: No description of suspect or copy of composite or vehicle description will be given to the press unless cleared through R/O, Lt. Willis, Majors Howard and Maxwell, or the Chief of Police.

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY Terry Bulloch DATE 5-25-79

kmb

27 CASE FILED Yes ☐ No ☐ | 28 THIS CASE IS Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

PASCAGOULA POLICE DEPARTMENT
OFFENSE REPORT

STOLEN PROPERTY FILE | CLASSIFICATION OF CRIME | CASE FILE NUMBER: 47-79-3

COMPLAINANT

(1) Complainant's Name	(2) Complainant's Address	(3) Complainant's Phone No.
Pascagoula Police Dept.	Delmas Ave	762-2211

(4) Race	(5) Sex	(6) Age	(7) D.O.B.	(8) Place Of Occurance	(9) Business Phone No.
				Rebel Package Store Hwy 90	

(10) Type Of Building	(11) Date & Time Of Occurance
brick	5-24-79 approximately 8:30 p.m.
(12) Date & Time Reported: 5-24-79 5:06 p.m.	(13) Officer(s) Assigned: Miletich/Best/Bulloch/Reels/Willis/Maxwell/others — (14) Beat No.
(15) Person Making Original Complaint: C.W. McGrath	(16) Address: ABC agent — (17) Phone No.: na

CRIME

(18) Type of Crime	(19) Type Area Where Offense Occured
armed robbery/murder	business

(20) Describe Weapon or Force Used: handgun - automatic 25 caliber
(21) Cal. Gauge: [ ]22 [ ]32 [ ]38 [ ]44 [ ]45 [ ]Unk [ ]Rev. [ ]Auto [ ]3" [ ]6" [ ]8" [ ]10 [ ]16 [ ]20 [ ]12
(22) Describe Type Vehicle Used (Year, Make, Model, Color, Tag No., Vin. No. If Available): unk
(23) M. O. (Type Property Taken, Type of Entry, Type Instrument Used for Entry, etc.): U.S. currency
(24) What Suspect(s) Sold (If Applicable to Crime): unknown
(25) Victim's Activity Prior to Offense (If Applicable to Crime): tending liquor store
(26) Bodily Injury to Victim (If Applicable to Crime): gunshot wounds
(27) Medical Attention (Hospital): [ ]Yes [ ]No deceased
(28) Direction of Flight by Suspect(s): [ ]N [ ]E [ ]S [ ]W [ ]Auto [ ]Foot [ ]Unk [ ]Other
(29) Will Complainant Prosecute: yes
(30) Evidence Obtained at Scene: see supplementary reports submitted by investigators

(31) Witness to Offense	(32) Witness Address	(33) Race	(34) Sex	(35) Age	(36) Phone No.
31-67 na					
(37) Witness to Offense	(38) Witness Address	(39) Race	(40) Sex	(41) Age	(42) Phone No.

SUSPECT

(43) Suspect or Person Arrested (Name)	(44) Race	(45) Sex	(46) Age	(47) DOB	(48) Ht.	(49) Wt.	(50) Hair	(51) Eye color	(52) Arrested [ ]Yes [ ]No

(53) Address: (54) Clothing or Identifying Characteristics (Marks, Tattoos, Facial Hair, Etc.)

(58) Suspect or Person Arrested (Name)	(56) Race	(57) Sex	(58) Age	(59) DOB	(60) Ht.	(61) Wt.	(62) Hair	(63) Eye color	(64) Arrested [ ]Yes [ ]No

(65) Address: (66) Clothing or Identifying Characteristics (Marks, Tattoos, Facial Hair, Etc.)

PROPERTY

(67) Property Stolen (Description, Serial No. and Value)

Brief Summary of Offense (Use Supplementary Report)

This officer responded to a call of unknown trouble at the Rebel Package Store on Highway 90. Upon my arrival I was met by ABC agent C.W. McGrath who informed me there was a man lying down in the back room, who appeared to be a victim of gunshots. This officer went to the back room and observed a W/M who was later identified as Mr. Edward Beaulieu lying on his back between the television set and the back bathroom. Mr. Beaulieu's head was toward the entrance to the back room. Mr. Beaulieu was 56 YOA, DOB 1-11-23. He was a resident of 2048 Chelsea Court, Gautier, MS. At approximately 9:07 p.m. Officers Best and Bulloch arrived on the scene and Officer Bulloch was given an assumed charge of the investigation. At 9:11 p.m. amsery arrived and at the

Copies to Juvenile, Narcotic, Investigator, I.D.	Further Action Required	Typed By	Date & Time
Inv. All - Willis	[ ]Yes [ ]No	kmb	5-25-79
Reviewed By	**Reporting Officer (Signature)**		**Date**
M. Willis	Miletich		5-24-79

SUPPLEMENTARY REPORT

NO _____ Classification _____ NO 47-79-3

Name of Complainant _____ Address _____ Phone No. _____

Offense _____

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.
(Investigating Officer must sign)

Page No _____ Date _____ 19___

request of the Inv. Bulloch, a Mr. Brent Gupton who was the EMT for Amserv looked at the deceased and advised Officer Bulloch that he could not detect any heartbeat or pulse.
Further information concerning this case will be included in reports by various investigators who were at the scene.

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY Miletich DATE 5-24-79

kmb

27 CASE FILED Yes ☐ No ☐ | 28 THIS CASE IS Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY W. C. B. Willis

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant: Pascagoula Police Dept. | Address | Phone No.

Offense: murder

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. _____ Date 6-24-79 19___

W/F Arlene McCabe, alias:

1. Arlene Marie Henderson
2. Arlene Marie Fitzgerald (TN dept of public health) DOB 2-4-45, certificate D-674542. Birth place: Shelby County, State of Tenn, record filed 3-16-45, card issued 12-18-78 by U.S.M. (United States Marshall)
3. Arlene Marie McPhearson-real maiden name
4. Arlene Marie Cassel - real married name

W/M Earl Leroy Cassel, aka: Earl Leroy McCabe, assigned to Government witness protection program 6-27-77, assigned protection number WC2154 and placed with Marshall's Office Milwaukee, Wis on 6-28-77. Other alias of Cassel: ssn: 390-38-1155, FBI# 917 489C, DOB 5-13-40.

1. Earl Raynor
2. Patrick Kearney
3. James William Fuller
4. Brian Cecil Foley
5. Earl L. Henderson

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY Lt. Willis kmb DATE 7-5-79

27 CASE FILED: Yes ☐ No ☐ | Cleared by arrest ☐ | 28 THIS CASE IS: Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

SUPPLEMENTARY REPORT

NO. _____ Classification _____ NO. 47-79-3

Name of Complainant _____ Address _____ Phone No. _____

Offense: murder

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. _____ Date 6-15-79 19___

Re: Arlene McCabe, 2-4-45, MS d.l. 001-84-4247, ssn: 460-41-1683.

Re: Arlene McCabe working for the Lil General Stores, (Mary Gammon, 497-4066).

When she came to work, Arlene told Mary Gammon that she and her husband had a new identity and if she (Gammon) had any questions, to check with Sam Peterson or Wayne McMurtrey in Biloxi with the U.S. Marshall's office, 432-5722.

She was hired on 1-9-79 and terminated 1-20-79, she quit to take a paper route. She was trained at the store where Gunter was killed and worked at the store on Eden and Ingalls Avenue.

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY Lt. Willis DATE 6-15-79

kmb

27 CASE FILED Yes ☐ No ☐ | 28 THIS CASE IS Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

SUPPLEMENTARY REPORT

NO _____ Classification _____ NO 47-79-3

Name of Complainant: Pascagoula Police Dept. Address: _____ Phone No. _____

Offense: murder-armed robbery

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.
(Investigating Officer must sign)

Page No. _____ Date 6-14-79 @ 1 p.m. 19___

Assistant U.S. Attorney Jim Streiker, Chicago, IL 312-353, 3540, re: Earl Leroy Cassel, aka Earl L. McCabe, FBI 917 489 C, 5-4-78 cause 77CR474, is going to send all required material under the act of congress on Cassel's plea and sentence in Chicago, IL.

Arresting officers of McCabe:
Bulloch, East, Rivers, John, and Best.

Arlene McCabe was working at Gulf Rope and Cordage Co., Inc.

Re: 76 chevrolet monza purchased on 2-28-79, two thousand and two hundred and twenty five dollars - draft on First MS National Bank of Biloxi, MS, $2225.00. vin# IM27B6C123719.

Phone # Jimmy or Paul (Sue or Lou)
Devilla TX 81 527-3645
4-11 205-438-3159 Mobile
4-11 Gulf Breeze, FL 904-932-2173
4-16 414-354-8968, Milwaukee Wisc.
4-26 916-878-0382 Auburn, CA

25 INVESTIGATING OFFICER(S) _____ 26 REPORT MADE BY _____ DATE _____

27 CASE FILED: Yes ☐ No ☐ | 28 THIS CASE IS: Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

SUPPLEMENTARY REPORT

O_____ Classification _____ NO. 47-79-3

Name of Complainant: Rebel Package Store | Address | Phone No.

Offense: murder

DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.:
(Investigating Officer must sign)

Page No. _____ Date 6-8-79 19__

F.B.I. agent Frank Leapley, FBI lab, 1-202-324-2163, @ 9:10 a.m. this date advised R/O that I needed to notify: Conrad Banner, Assistant Department Director of the I.D. division of the F.B.I. ext. 5404, 1-202-324-5404.

@9:15 a.m., 6-8-79, Jim Streiker, assistant U.S. attorney Chicago IL, called and advised he called Howard Safir(Marshall), and Safir was not in, and was referred to: assistant director of Enforcement Operations, Justice Department, Mr. Gerald Shur. Shur's secretary advised Mr. Streiker that Mr. Shur was in conference and would return his call. Jim Streiker called and advised that he got in touch with Shur, and Shur will contact the U.S. Marshall's office. They will be calling R/O.

@ 10:36 a.m., 6-8-79, R/O called Ronnie Baughn, ATF, 1-863-4871. Ronnie advised he would call me on gun trace on .22 pistol Arlene McCabe turned in. Also, he was going to get in touch with the Dept. U.S. Marhsall Johnny Hughes on probable cause for possible search warrant in reference to guns Arlene McCabe said were in their house.

25 INVESTIGATING OFFICER(S) Task force 26 REPORT MADE BY Lt. Jerry Willis DATE 6-8-79
kmb

27 CASE FILED Yes ☐ No ☐ | 28 THIS CASE IS Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐ | 29 APPROVED BY _____

BEAULIEU, MR. EDWARD AUTOPSY NO.: A79-37

SEX: MALE RACE: CAUCASIAN AGE: ESTIMATED 55 YEARS

DEAD ON ARRIVAL AT SINGING RIVER HOSPITAL ON 5-24-79.

AUTOPSY PERFORMED: 5-25-79 BEGINNING AT 9:45 A.M.

AUTHORIZATION FOR AUTOPSY SIGNED BY: FLORENCE BEAULIEU, WIFE OF THE DECEASED WITHOUT LIMITATION AT THE REQUEST OF CORONER BENNY BRYANT.

ABSTRACT OF HISTORY: On the night of 5-24-79 the deceased was allegedly shot several times while working at a local liqueur store. He was pronounced dead on arrival at the Singing River Hospital.

GROSS EXAMINATION OF THE BODY: This is the body of a well developed, well nourished Caucasian man appearing approximately 55 years of age. The body length is 173cm. and weighs an estimated 200 pounds. The scalp with a receding hairline is partially covered by short gray-brown hair and multiple gunshot wounds to the head, face and neck are present. (The gunshot wounds will be described in greater detail at a later time). The head, face and neck is covered by clotted and dried blood. A small amount of sanguinous fluid is oozing from the mouth and nostrils. The body is clothed in blue khaki pants and a light blue short sleeved shirt. The shirt pocket contains glasses with case and two fountain pens. The pants pockets are empty. A wrist watch is present on the left arm. The undergarments consists of light blue shorts with no undershirt. He is wearing shoes and socks. Blood is present all over the front and back of the pants and shirt as well as clotted and dry blood on the face, scalp, both hands and forearms.

ENTRANCE WOUNDS: Two entrance wounds are present on the forehead, being 1cm. to the right and 1.5cm. to the left of the midforehead. The bullets traveled toward the occipital area. Small bullet fragments are present outside the skull with each wound. Two entrance wounds at base of neck anteriorly, being 3cm. to left of midline with bullet track to the left upper anterior chest and 6cm. to the right of midline with bullet track to the C-6 vertebral body. One entrance wound near point of chin and the bullet track connects to an exit wound 2.5cm. to the left of the midanterior larynx. One entrance wound center of upper lip that has a bullet track that connects with an exit wound in the left parietal area. Three entrance wounds left temporal area with stippling of the surrounding skin. The three wounds occur in an area of 1 to 3cm. from the tragus. Two entrance wounds right temporal area located above the zygoma and approximately 3 and 4.2cm. anterior to the tragus. Black particles are present in the skin around these wounds.

EXIT WOUNDS: One exit wound right temporal area located below the zygoma and approximately 3cm. anterior to the tragus. The wound margin is ragged and shows no staining of the surrounding skin. One exit wound right mid anterior parietal area. The wound is stellate with irregular margins and has no gross powder staining of the surrounding skin. One exit wound 2.5cm. to left of the midanterior larynx. One exit wound left parietal area. This wound is small, measures 0.6cm. X 0.4cm. and has tissue fragments protruding from it. However, a bullet was found beneath this wound (outside skull). It is postulated that a fragment of bone exited through the skin here producing this wound.

BULLETS REMOVED: Left frontal area multiple small fragments outside skull. Right frontal area multiple small fragments outside skull. Two bullets left occipital area about 2cm. from midline. The bullets are inside the skull but outside the brain. These two bullets are probably from the two entrance wounds on the forehead. Left parietal area outside skull. The bullet track probes from midupper lip entrance wound. (Fragment of bullet or bone came through skin in the left parietal area). Left temporal area 1cm. inside skull. Left upper anterior chest outside ribs, body of C-6, right maxillary sinus and right cheek. In summary eleven entrance wounds, four exit wounds (one produced by bone fragment) and eight bullets plus bullet fragments from

two other areas are identified. Bullets of two different caliber are present. The bullets were picked up by Bill East and Rick Johns of the Pascagoula Police Dept.

The thorax is symmetrical and of unremarkable contour and the breast show no unusual masses or ulceration. The abdomen is slightly protuberant and soft. The external genitalia are grossly unremarkable. The extremities are of unremarkable configuration and show no deformity or edema. Inspection of the skin reveals clotted and dry blood as previously noted. Full body rigor mortis is present.

INCISIONS: The thorax and abdomen are opened in the usual manner revealing well hydrated subcutaneous tissue nowhere exceeding 3cm. in thickness and well developed, homogeneous red-brown musculature.

PERITONEAL CAVITY: It contains no free fluid and is lined by smooth, light gray parietal peritoneum. The liver edge extends approximately 2cm. beneath the right costal margin but the organs otherwise maintain their usual relationship.

MEDIASTINUM: Is in the midline and covered by a moderate amount of soft bright yellow adipose tissue containing no apparent thymic remnants

PLEURAL CAVITIES: They contain no free fluid and are lined by smooth, dark gray parietal pleura.

PERICARDIAL SAC: It contains approximately 20cc. of amber fluid and is lined by glistening, light gray membrane.

GROSS EXAMINATION OF THE VISCERA:

CARDIOVASCULAR SYSTEM: The pulmonary artery and its branches show no emboli or thrombi.

HEART: Weighs 380 grams and is covered by a relatively small amount of epicardial adipose tissue. The chambers contain fluid and post-mortem clotted blood and are lined by glistening, transparent endocardium. The valves are of unremarkable configuration and the cusps are thin and pliable. Sections of the myocardium show homogeneous dark red-brown firm cut surfaces of unremarkable thickness in both ventricles. No vestiges of the foramen ovalae or ductus arteriosus are observed. The coronary arteries follow their usual course, are patent throughout and lined by glistening, light tan intima.

RESPIRATORY SYSTEM:

TRACHEA: It is lined by smooth, pink-tan mucosa and contains a moderate amount of sanguinous frothy fluid.

LUNGS: Right lung weighs 350 grams and the left lung weighs 320 grams and are covered by glistening, transparent visceral pleura revealing dark blue-gray, focally finely mottled black external surfaces. Sections show relatively firm subcrepitant dark pink-gray, focally mottled red cut surfaces from which copious amounts of pink frothy fluid exude on compression of the tissue. The bronchi are lined by smooth, light pink-tan mucosa and contain copious amounts of clear frothy fluid. The peribronchial lymph nodes are grossly unremarkable.

SPLEEN: It weighs 150 grams and is of unremarkable configuration and is covered by a smooth, light gray capsule. Sections show firm, friable dark red cut surfaces with fairly well defined follicles and trabeculae.

BILIARY TRACT:

LIVER: It weighs 1500 grams and is covered by a smooth, transparent capsule revealing homogeneous dark brown external surfaces with slightly rounded edges. Sections show firm, friable, dark red-brown cut surfaces with poorly defined lobular markings. The hepatic ducts and blood vessels are grossly unremarkable.

GALLBLADDER: It contains approximately 40cc. of dark amber green viscid bile which drains with ease through the ampulla on application of pressure.

PANCREAS: It maintains its usual location and configuration and shows firm, coarsely lobulated, homogeneous light tan external and cut surfaces.

GI TRACT:

ESOPHAGUS: Is lined by longitudinally folded light gray mucosa showing no evidence of erosion or varices. The stomach contains approximately 100cc. of bile tinged fluid containing fragments of partially digested food. The stomach is lined by smooth, light tan mucosa forming prominent mucosal folds. The small intestine is grossly unremarkable. The large intestine is unremarkable except for the sigmoid area. In the sigmoid area there is a 3-X 5cm. firm mass involving the sigmoid colon and dome of the bladder.

ADRENALS: The adrenals maintain their usual location and configuration and are of unremarkable size and on section show firm, yellow-tan cortices enclosing soft, light gray medulla.

URINARY TRACT:

KIDNEYS: The right kidney weighs 130 grams and the left kidney weighs 130 grams. Each is covered by a thin, translucent, light gray capsule revealing smooth, dark pink-tan external surfaces. Sections of both organs show well defined cortices and medulla of unremarkable thickness and calices and pelvis of unremarkable size and configuration lined by smooth, light gray mucosa as are the uniformly patent ureters. The urinary bladder is firmly attached to a mass that involves the dome of the bladder and sigmoid. The bladder lumen contains approximately 30cc. of slightly cloudy amber urine and is lined by moderately trabeculated gray-tan mucosa.

LYMPH NODES: Show no gross abnormality.

BONES: The bones are of unremarkable density and the marrow is finely trabeculated and dark red.

REMOVAL AND EXAMINATION OF BRAIN: The scalp is opened by a coronal incision revealing a calvarium of unremarkable thickness and density (the entrance and exit wounds have previously been listed). The dura mater shows no apparent increase in tension and the epidural and subdural spaces contain bloody fluid, except in the areas distorted by bullet wounds. The pia arachnoid is glistening and transparent revealing equal and symmetrical cerebral hemispheres with well defined convolutions and sulci. The brain weighs 1400 grams. Multiple bullet tracks are present mainly from the frontal area toward the left occipital area and transversely across the frontal and midportion of the brain near the base. The bullet tracks are difficult to establish with absolute certainty as multiple bullet tracks cross in the same general area. Sections of the cerebral hemispheres show well defined gray and white matter and the ventricular system is gravely deformed by bullet wounds. The cerebrospinal fluid is grossly bloody. The cranial nerves are grossly distorted by bullet tracks. The cerebellum is grossly unremarkable except for two bullet tracks through the left lobe. The pituitary gland is grossly unremarkable.

MICROSCOPIC EXAMINATION:

HEART: Sections show the coronary arteries widely patent but some early plaques are present. The aorta shows moderate atherosclerosis. The myocardium is histologically unremarkable.

LUNGS: Sections show moderate congestion with autolysis of bronchial epithelium and focal anthracotic pigment.

LIVER: Sections show moderate fatty change and moderate increase of lymphocytes in triads and focal sinusoidal congestions.

Sections of the spleen, kidneys and bladder are histologically unremarkable (see comments under gastrointestinal track).

PANCREAS: Sections show advanced autolysis.

ADRENALS: No remarkable histologic abnormality.

GI TRACT: Including the gallbladder show mild to advanced autolysis. Sections of the mass in the sigmoid colon shows diverticulitis with abscess formation in the adjacent fat and attachment to the dome of the bladder.

BRAIN: Sections show evidence of acute trauma by the bullet tracks. The brain is otherwise unremarkable histologically.

PITUITARY GLAND: No remarkable histologic abnormality.

BONE MARROW: Sections show approximately 40 per cent cellularity with erythropoiesis, myelopoiesis and megakaryopoiesis occuring in the expected proportions.

FINAL DIAGNOSIS:

I. MULTIPLE GUNSHOT WOUNDS OF THE HEAD, FACE AND NECK.

II. DIVERTICULITIS WITH DIVERTICULAR ABSCESS IN THE SIGMOID COLON.

III. FATTY METAMORPHOSIS OF LIVER, MODERATE.

COMMENT: The immediate cause of death in this case appears to be multiple gunshot wounds of the head, face and neck inflicting severe massive damage of the brain.

6-25-79
A79-37

Dennis Magee
DENNIS MAGEE, M.D. /es

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
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7-9-79 282 NJC

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
FD Milwaukee WI	Earl Leroy Cassel 81388	5-27-58	1. theft 2 cts 2. agg batt 3. contrib to delin of child-S	2. 3.
PD Milwaukee WI	Earl LeRoy Cassel 81388	6-23-58	burg	2 yrs prob
SO Waukesha WI	Earl Leroy Cassel 3246	9-22-59	procuring & OAAR	9-22-59 30 das H of C Milwaukee Capias Ordered
PD Milwaukee WI	Earl Cassel	9-22-59	disorderly	30 das H of
H of C Hales Corners WI	Earl L. Cassel 26187	9-23-59	DC	30 das exp of sent 10-23-59
SRef Green Bay WI	Earl Leroy Cassel 19002	10-24-59	burg 2 cts	5 yrs on ea of 2 cts CC Manf rel rev'd to WSP 11-1-[illegible]; trans to WSP Wau in CC 11-[illegible] on chg of burg 2 cts
SPen Waupun WI	Earl LeRoy Cassel A-3781	1-23-63	burg 2 cts (VNCP)	2 [illegible] ea CC purposes Rel [illegible]

1-4 (Rev. 7-19-77)

7-9-79

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD Milwaukee WI	Earl Leroy Cassel 81388	1-4-64	CCW Dr Lic Law	60 das Milwaukee Co Jail 1-30-64
PD West Allis WI	Earl Leroy Cassel 3671	1-11-64	burg Att Burg	5 Yrs Green Bay to run conc w/ parole viol & Fed sent 3-4-64 dism by motion of D.A.'s Office because State couldn't sustain burden of proof
USM Milwaukee WI	Earl Leroy Cassel 00642	4-27-64	mail theft	3 Yrs sent conc with state sent
SRef Green Bay WI	Earl Leroy Cassel 3781-A	7-1-64	burg	5 Yrs
PD Milwaukee WI	Earl Leroy Cassel 81388	4-13-68	End Sfty by cond reg of life	2 Yrs WI SRef Green Bay WI
SPr Waupun WI	Earl LeRoy Cassel 3781A	11-14-68	Circuit Court Milwaukee Co endangering Safety by conduct regardless of life	2 Yrs Concurrent

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
SPr Waupun WI	Earl LeRoy Cassel 3761-A	11-14-69	Circuit Crt . Dodge Co resisting or obstructing an officer	1 yr cons; mandatory rel 9-12-70; 1 yr mandatory rel 9-1-71; mandatory rel revoked 1-23-80; final disch 11-18-70
PD Milwaukee WI	Earl Leroy Cassel 81388	12-12-72	1. CCW (gun) 5202	2-15-73 dism
USM Milwaukee WI	Earl Leroy Cassel 00642	2-16-73	knowingly receiving & poss a firearm affecting commerce	
Bu of ATF Milwaukee WI	Earl Leroy Cassel 5106 0173 0013M	2-16-73	felon in poss of a firearm	
SO Waukesha WI	Earl Leroy Cassel 15571	12-5-73	ill use of firearms	rel to USM
PD Greenfield WI	Earl Leroy Cassel 74-96	3-21-74	burg	5-29-79 ltr found not guilty
PD Milwaukee WI	Earl Leroy Cassell 81305 SID 1383	4-12-74	obst officer 4800	refused
SO Sacramento CA	Earl Leroy McPherson S-59910	8-1-74	23102a VC drk dr	

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
SO Milwaukee WI	Earl Leroy Cassel 35245	11-5-74	capias burg 2200 wrnt bail jumping 5001 wrnt poss of contr sub 3504 wrnt bail jumping 5001 capias CCW 5202 wrnt oper auto intox 346.63 capias oper auto intox 346.63	5-26-[illegible] 2 yr prob 1 year H of C on chg of capias 2-175011 carrying concealed weapon 90 day H of C on chg of capias 2-174939 oper auto intox
Dane Co Sheriff's Dept B of I Madison WI	Earl Leroy Cassel 50820	2-11-77	harbor & assist escapee	
USN Chgo IL	Earl L Cassel 84695	8-18-77	uttering forged money orders	
PD Pascagoula MS	Earl Leroy McCabe 14184	6-1-79	investigation of robbery/homicide	

Special Agent in Charge, ATF
St. Paul, Minnesota

September 27, 1973

Francis J. Standish, Special Agent, ATF
Milwaukee, Wisconsin

U.I. # 5106 0173 0013 M - Earl Leroy Cassel

On February 16, 1973, Earl Leroy Cassel was arrested by ATF Agents on a warrant charging him with a violation of Title 18, USC, Section 1202(a), Appendix, being a felon in possession of a firearm.

On June 26, 1973, Cassel was found guilty before Judge Myron Gordon, Eastern Judicial District of Wisconsin, and a pre-sentence investigation was ordered.

On September 24, 1973, Judge Myron Gordon sentenced Cassel to four months in prison. Cassel was represented by Roland J. Steinle Jr. Earl Cassel is one of 28 persons on the Milwaukee Police Department's list of known Safe Burglars. He is associated with OCD persons John Wayne Forbes, Sam DiMaggio, and the late John Triliegi.

Francis J. Standish
Special Agent

RESIDENT AGENT IN Cr...

FEDERAL BUREAU OF INVESTIGATION

1. F.B.I. 5106 0173 0013 M	DATE SUBMITTED: February 16, 1973
2. NAME (Add social security number when available): Cassel, Earl Leroy; S.O.C. # 390-38-1155	3. ALIASES
	5. DATE AND PLACE OF BIRTH: 5/13/40, Mason City,, Iowa
4. PRESENT ADDRESS: 2828 E. Bolivar, Apt. 15, St. Francis, Wisconsin	5. PREVIOUS ADDRESS: 1733 N. Cambridge, apt. 103, Milwaukee, Wisconsin
6. NATIONALITY: Irish/German	7. CITIZENSHIP STATUS: Citizen
8. OCCUPATION: Apt. Manager	9. CRIMINAL SPECIALTY: Burglary
10. CHECK IF DEFENDANT WAS: [X] FINGERPRINTED [X] PHOTOGRAPHED	11. CAPACITY IN CURRENT CASE: Felon in possession of a Firearm
12. EDUCATION: 8th grade	

13. DESCRIPTION	RACE	SEX	HEIGHT	WEIGHT	EYES	COMP.	HAIR	BUILD	SCARS AND MARKS
	Cau.	M	5'11"	190	Brn.	Fair	Brn.	Med.	deformed left arm

14. MARITAL STATUS: [ ] SINGLE [X] MARRIED [ ] SEPARATED [ ] DIVORCED

15. PECULIARITIES AND HABITS	16. ASSOCIATES
	John Wayne Forbes

17. CRIMINAL RECORD (Check local criminal records and (when possible) ask the defendant about his criminal record)

4-13-68	Endangering Safety by conduct regardless of life
~~XXXXX~~ 1-14-64	Carying a concealed weapon
1-23-63	Burglary (2 counts)
9-22-59	Disorderoy (reduced from Agg. Battery)
10-24-59	Burglary (2 Counts)
6-27-58	Burglary
5-15-58	Contributing to the delinquincy of minors
5-15-58	Theft (2 Counts)

additional record on F.B.I. record sheet.

18. RELATIVES (Spouse, children, father, mother, brothers, sisters)

NAME	ADDRESS	RELATIONSHIP
Arlean Cassel Nee: McFerston	2828 E. Bolivar, Apt. 15	wife

19. FINANCIAL RESPONSIBILITY (Brief description of real and personal property, including cash on hand and in banks, as well as indebtedness)

20. FORM 4107 PREPARED [ ] YES [ ] NO	21. APPROXIMATE GROSS INCOME LAST YEAR $ _____ DID DEFENDANT FILE INCOME TAX RETURN? [ ] YES [ ] NO WHERE	RECOMMENDED REFERRAL [ ] YES [ ] NO
22. SIGNATURE (Special Investigator) Francis J. Standish, Special Agent		DATE February 16, 1973

(NOTE: Additional material submitted for the record is retained in the subcommittee files.)

GOVERNMENT WITNESS

(WARREN SIMS)

CITY OF NATCHEZ

KENNETH W. FAIRLY
Chief of Police

POLICE DEPARTMENT
POST OFFICE BOX 144
NATCHEZ, MISSISSIPPI 39120

TELEPHONE NUMBER
601/445-5565

June 23, 1982

Senator Thad Cochran
U. S. Senate
321 Russell Building
Washington, D. C. 30210

Dear Sir,

Beverly Ward of your office contacted me by telephone and requested any information we may have on a Warren Sims, AKS Warren Stevenson.

On October 5, 1981, we had a bank robbery in Natchez which resulted in a shoot out between the bank robbers and an Adams County Deputy Sheriff. A B/M named Warren Sims AKS Warren Stevenson AKS Sam Morris was arrested and a B/F Tracey Ruth Stevenson was killed.

On October 6, 1982, Chief Deputy Sheriff Tommy Ferrell and myself talked to Warren Sims and at this time, we found out he had been under the Federal Witness Protection program.

On October 6, 1982, I called the U. S. Marshall's office in Muskogee, Oklahoma where Simms stated they were responsible for him. At present, I don't remember which agent I talked to, but I asked him if he knew a Warren Sims AKS Warren Stevenson and he became very excited and wanted to know how I knew about this subject. I advised him that we had arrested Sims for bank robbery in Natchez. I asked for any information he could give me on Sims and I was informed that they could not release any information to me in regards to Sims nor could he talk about Sims without approvel from his Washington D.C. headquarters. He stated that he would have someone contact me. He also advised that his office had Federal Grand Jury indictments on this subject and wanted to know if they could pick him up. I stated no.

On October 7, 1981, a Johnny W. Hughes, an inspector for the U. S. Marshall Service came to my office and he stated he was in Natchez to find out about Sims and to help us obtain any information. At this time, I told him everything we knew and I requested a copy of his Police record and previous convictions as I would need these to indict this subject under the Mississippi habitual offender law. He informed me he would get this information for me. As of yet, I have recieved nothing from the U. S. Marshall Service.

It seems to me and my fellow Officer here in Natchez that the U.S. Marshall was more interested in getting our information on Sims for their use and weren't interested in helping us to bring Sims to trial for bank robbery.

Our department recieved invaluable help from the F. B. I. in regards to Warren Sims, and only then did we find out any of Sims past record.

Also Warren Sims told us that the B/F, Tracey Stevenson, his Daughter, was also under the Federal Witness Protection program. We never did get that confirmed. Miss Stevenson was also A. W. O. L. from the U. S. Army. The Military Police at Fort Huachua, Arizona gave us all the information they had on Miss Stevenson.

It is our opinion here in Natchez that the U. S. Marshall Service is more interested in protecting these people's past than they are in helping local law enforcement agency identifying these people after they get arrested again while under this program.

Enclosed you will find a copy of our offense report and the interview report of Warren Sims and what records we have obtained from other sources.

If I can be of any more assistance to you, please let me know.

Yours Truly,

Captain Jack Hude
Chief of Detectives
JH/hs

(NOTE: Additional material submitted for the record is retained in the subcommittee files.)

GOVERNMENT WITNESS

(MARION ALBERT PRUETT)

NAME OF DEFENDANT:

1) Marion Albert Pruett, described as:

Aliases	Billy Dean Wagner Charles "Sonny" Pearson, Lee Esmond, Lee Earl Esmond, Leroy Esmond, "Mad Dog"
Race	White
Sex	Male
Date of Birth	October 4, 1949
Place of Birth	North Carolina (Gastonia)
Height	5' 7"
Weight	145 pounds
Hair	Brown - curly
Eyes	Blue - left eye false - wears glasses and sometimes contact lens
Education	High School Diploma - 12 years
Characteristics	Ruddy complexion - now wears a beard, acne scars
Tattoos, scars, marks	Stars and stripes with letters "MAP" - left upper arm; 6-inch by 3-inch scar back upper left calf; 7-inch scar left side of abdomen; 8-inch scar right side of abdomen
Social Security Account Number	242-80-8676
FBI Number	692-J3
Prior Arrest	Bank robbery, Charlotte, North Carolina, 1972; bank robbery, Cincinnati, Ohio, 1975
Occupation	Electrician

LIST OF DETAINERS

1.	W. D. Pennsylvania	10-22-81	Bank robbery
2.	State of New Mexico	10-22-81	Bank robbery
3.	State of Arkansas	10-22-81	Capital murder
4.	Western Region Parole Commission Burlingama, Calif.	10-26-81	
5.	State of Mississippi	10-27-81	Capital murder, kidnapping
6.	State of Colorado	10-29-81	Murder, murder
7.	W. D. Washington	11-02-81	Bank robbery, kidnapping
8.	S. D. Texas		Bank robbery, kidnapping

As a result of investigation conducted to date, the following is an account of known criminal activities by Marion Albert Pruett:

6/26/81	Robbed the Queen City Savings & Loan, Denny Regrade Branch, Seattle, Washington, and took the bank manager hostage, who was subsequently released, in connection with the robbery. Obtained $12,400.
7/29/81	Robbed the Gibralter Savings Association, 3717 Leopard, Corpus Christi, Texas, and took a bank teller hostage, who was subsequently released, in connection with the robbery. Obtained $6,461.
8/26/81	Robbed the Sun Federal Savings & Loan, 2437 North Monroe Street, Tallahassee, Florida, and took a bank teller hostage, who was subsequently released, in connection with the robbery. Obtained $13,907.35.
9/17/81	Robbed the Unifirst Savings & Loan, Metro Center Branch, Jackson, Mississippi, and took a hostage, Peggy Lowe, Commercial Loan Officer, in connection with the robbery. Obtained $6,893.
9/17/81	Took Peggy Lowe to a wooded area in Sumter County, Alabama, and shot Lowe in the back of the head, which resulted in her death.
9/30/81	Robbed the Lincoln Savings Bank, Great Southern Shopping Center, Bridgeville, Pennsylvania, and took the branch manager hostage, who was subsequently released, in connection with the robbery. Obtained $7,800.
10/12/81	Robbed the Convenience Corner, Old Greenwood Road and Phoenix Street, Fort Smith, Arkansas. Took employee hostage and shot and killed her. Obtained approximately $150.00.
10/16/81	Robbed 7-11 Convenience Store, 408 Orion Court, Fort Collins, Colorado. Shot and killed store employee. Obtained approximately $28.00.
10/16/81	Robbed 7-11 Convenience Store, 1215 East Eisenhower Street, Loveland, Colorado. Shot and killed store employee. Obtained approximately $32.00.

Subject Pruett was on the Witness Security Program and relocated in Albuquerque. He ended the Witness Security Program (WSP) on November 20, 1979.

The following information revealed Pruett's false identity background provided by the U. S. Marshal's Service under the WSP:

Subject's false identity was Charles Sonny Pearson; new Social Security #233-17-6847. The documentation used was North Carolina Driver's License. His address as of April, 1981, was 5720 Algeria Road, Northwest, Albuquerque, New Mexico. He was released from the WSP on April 21, 1981. His date of last contact was May 12, 1981 at Albuquerque, New Mexico. The marshal handling the contact was [redacted], [redacted], United States Marshal. His vehicle was a 1973 Honda, VIN 3CCB4505038930, with 1980 Alabama Plate M5617 and a 1968 Mercury, VIN 3C68FLH8283, 1980 Alabama Plate M5618. His new wife was Pamela Sue Barker, also known as Pam Knuteson, true name Pamela Sue Barker.

It is noted that in April, 1981, subject's common-law wife was reported missing in Sandoval County, New Mexico, and subsequently was found dead. On April 17, 1981, Pruett, under the name of Pearson, was booked as a material witness. He was released on April 20, 1981, and offered further relocation but he declined.

11-20-81 394 LS

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692 J 3

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Consol Rec Sec Pr Dept Raleigh NC	Marion Pruitt #P7655-519-11049 36	7-10-67	larceny	6 mos
PD Atlanta Ga	Marion Albert Pruett #288464	8-13-71	bank rob	
USM Asheville NC	Marion Albert Pruett #4333-2-71-184	8-24-71	Bank Robbery	sent 15 yrs Custody of Atty Gen
Medical Center For Fed Prs Springfield Mo	Marion Albert Pruett #19871-175	10-25-71	Bank robbery Title 18 Sec 4244	
Medical Center for Fed Prs Springfield Mo	Marion Albert Pruett #19871-175	2-5-72	Bank Robbery	15 years 6-8-72 transfer to FR:FR: Lee 11-15-79 PAR
Fed Reif Petersburg Va	Marion Albert Pruett #19871-175-B	7-20-72	fr Metro Corr Ctr San Diego CA bank rob	15yrs(reg adult)
Fed Yth Ctr Ashland Ky	Marion Albert Pruett 19871-175	12-7-72 tr/f/Lee Petersburg Va	bank rob	

1

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Med Ctr for Fed Pr Springfield Mo	Marion Albert Pruett 19871-175	7-12-73 frm AK	bank rob	15 yrs
Fed Yth Center Ashland Ky	Marion Albert Pruett 19871 175	11-6-73	Bank Robbery	11-6-73 Rec'd Ash Tr f SPG
Med Center For Fed Pr Springfield MO	Marion Albert Pruett 19871 175	3-24-74	bank robbery	15 yrs
Fed Yth Ctr Ashland KY	Marion Albert Pruett 19871-175	10-20-74 Fr SPG	Bank Robbery	
FBI Cincinnati OH	Marion Albert Pruett 91-11249	11-13-75	Armed Bank Robbery	15 yrs custody US Atty Gen
Fed Corr Inst Milan MI	Marion Albert Pruitt 19871-175 F100449	4-6-76	Bank Robbery Bank Robbery	19 yrs 2 mos 14 das Agg Began 1-19-72 Full term 10-24-90
US Pen Terre Haute IN	Marion A Pruitt 19871-175 F10-04-49	5-26-76 Rec'd THA fr Marion	Armed Bank Robbery & Bank Robbery	19 yrs 2 mos & 14 das
USM Detroit MI	Marion Albert Preutt 23025	6-25-76	Escape from Federal Institution	4 yrs Custody US Attorney General rec 12-3-76

2

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Med Center for Fed Pr Springfield MO	Marion Albert Pruett 19871-175 FI00449	1-13-77	Bank Robbery Armed Bank Robbery Attempted Escape	23 yrs; 2 months; 14 days
US Pen Terre Haute IN	Marion Albert Pruitt 19871-175 F-10-04-49	4-5-77 In trf fm SPG	bank rob armed bank rob attempted escape	23 yrs 02 mos 14 das
USM Amarillo TX	Marion Albert Pruett 11969-077	10-18-81	Bank Robbery (S.D.Miss)	

3

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Medical Center for Fed Prs Springfield Mo	Marion Albert Pruett #19871-175	2-5-72	Bank Robbery	15 years 6-8-72 transfer to FR:FR: Lee
Fed Ref Petersburg Va	Marion Albert Pruett #19871-175-B	7-20-72	bank rob	15yrs(reg adult)
Fed Yth Ctr Ashland Ky	Marion Albert Pruett 19871-175	12-7-72 tr/f/LEE Petersburg Va	bank rob	

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Med Center For Fed Pr Springfield MO	Marion Albert Pruett 19871 175	3-24-74	bank robbery	15 yrs
Fed Yth Ctr Ashland KY	Marion Albert Pruett 19871-175	10-20-74 Fr SPG	Bank Robbery	
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US Pen Terre Haute IN	Marion A Pruitt 19871-175 P10-04-49	5-26-76 Rec'd THA fr Marion	Armed Bank Robbery & Bank Robbery	19 yrs 2 mos & 14 das
USM Detroit MI	Marion Albert Preutt 23025	6-25-76	Escape from Federal Institution	4 yrs Custody US Attorney General rec 12-3-76

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CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Med Dep for Fed Pr Springfield MO	Marion Albert Pruett [illegible]	1-13-77	Bank Robbery Armed Bank Robbery Attempted escape	10 yrs 2 mos 14 das
USP Terre Haute IN	Marion Albert Pruett [illegible]	4-5-77 In trf from SPG	Bank robb armed bank robb Attempted escape	20 yrs 02 mos 14 das
USM Amarillo TX	Marion Albert Pruett 11969-077	10-13-81	Bank robbery (SD Miss)	
USM Jackson MS	Marion Albert Pruett 11969-077	10-26-81	Bank Robbery	
PD Jackson MS	Marion Albert Pruett 67655	10-27-81	Capital Murder, Kidnapping	
PD Jackson MS	Marion Albert Pruett 81-727	11-2-81	Capital Murder, Kidnapping and Armed Bank Robbery	

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
IDENTIFICATION DIVISION
WASHINGTON, D. C. 20537

Use of the following FBI record, NUMBER 692 J3 , is REGULATED BY LAW. It is furnished FOR OFFICIAL USE ONLY and should ONLY BE USED FOR PURPOSE REQUESTED. When further explanation of arrest charge or disposition is needed, communicate directly with the agency that contributed the fingerprints.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
	FLASH: If arrested prior to 10-24-94 Notify Bureau of Prisons Central Office 320 First Street Washington, D. C. 20534 inf rec 11-23-79			
	WANTED: Marion A. Pruitt for Homicide wilful kill Gun Case #101581 date warr/esc 10/15/81 Notify Fort Smith PD; Fort Smith, AR inf rec 10/16/81			
	CAUTION: ARMED AND DANGEROUS			
	CANCELLED			
	WANTED BY FBI: Marion Albert Pruett, aka, Billy Dean Wagner, Charles Sonny Pearson BANK ROBBERY Notify FBI Seattle O.O. #91-6137 inf rec 10/16/81			
	CAUTION: ARMED AND DANGEROUS			
	Aliases: Marion Albert Pruell, Marion A. Pruett			
	CANCELLED			

CC-Bureau of Prisons Central Office
320 First Street
Washington, DC 20534

GOVERNMENT WITNESSES

(RICHARD AND DONNA CONTI)

SCHMID, FORD, MOONEY & FREDERICK
ATTORNEYS AT LAW
1800 FIRST NATIONAL CENTER
SIXTEENTH AND DODGE STREETS
OMAHA, NEBRASKA 68102
TELEPHONE
402 341-7100

MARVIN O. SCHMID
JOHN P. FORD
WILLIAM E. MOONEY, JR.
KEITH I. FREDERICK
CHARLES P. FIKE
WALDINE H. OLSON
M. BRIAN SCHMID
JOHN R. TIMMERMIER
LARRY R. FORMAN
WILLIAM L. BIGGS, JR.
MICHAEL G. HELMS
RODNEY G. GNUSE
MICHAEL A. NELSEN
MARK L. GOODALL
JOHN M. BURNS
RICHARD D. MYERS
ARDEN J. RUPIPER
DONALD L. SWANSON
JOHN C. TOELLE
RICHARD W. RATZ
MARION F. PRUSS

June 25, 1982

Senator Thad Cochran
Room 321
Russell Senate Office Bldg.
Washington, D. C. 20510

Attention: Ms. June Walton

Dear Ms. Walton:

It is my understanding that Senator Cochran is holding hearings to investigate the witness protection service administered by the United States Marshal's office. We have been informed of these hearings by the General Accounting Office and offered an opportunity to participate by submitting a written statement, along with pertinent correspondence, that serves to outline our experience in this area. Our office represents several banks in the metropolitan area, one of whom is the Bank of Millard located in Millard, Nebraska. Our experience with the witness protection service arises out of our representation of that bank.

I believe the first item of correspondence from the bank to this office dated September 21, 1979 from the vice president of the bank sets forth the background of the initial contact. Thereafter, this office made several attempts through the United States District Attorney's office here in Omaha to obtain information as to the whereabouts of the automobiles. Note that both initially and throughout the subsequent legal proceedings we had no desire to know the whereabouts of the debtors themselves; we were simply trying to obtain possession of the automobiles that served as collateral on the loan. We were basically told that we could receive no help unless we proceeded through the courts.

We then filed a lawsuit to collect the amount due pursuant to the terms of the promissory note. A significant problem arose because of our ability to determine just where the defendants might be, such that we could obtain jurisdiction over them. Acceptable jurisdiction was taken by the court pursuant to affidavit supplied to this office by the United States Marshal stating that the debtors had in fact been served with all the proper legal notices. Subsequently, we did obtain judgment against the debtors. However, it was a long, involved and costly process.

Once judgment was obtained I supplied the United States Marshal's office with authenticated copies of the judgment and a letter stating that we were willing to accept the automobiles in full satisfaction of the judgment. Copies of this letter and other pertinent correspondence are included.

Generally, for myself and on behalf of our client, I would like to state that we are extremely unhappy with a system that

will not protect a lender who has gone out on a limb to provide assistance to witnesses who are being protected by the United States Federal Government. The loan was made in an effort to be supportive of this kind of a program that supposedly is critical in obtaining convictions. The Bank of Millard cooperated, but when it came time for reciprocal cooperation in an effort to satisfy at least some part of the outstanding debt, we received none from the United States Marshal's office, nor from the United States Attorney's office. If the Department of Justice intends to rely upon local lending institutions to make loans to the protected witness, they should stand ready to cooperate in the event the witnesses disappear, taking with them the collateral and leaving the debt unpaid.

The United States Marshal's office apparently knew where the debtors were located and very early in the proceedings could have advised us if they still had the cars and could have returned the cars to the possession of the bank. While there is surely responsibility toward the witness who is being protected, that same kind of responsibility should go to any lending institution who grants credit to one of those witnesses. In conclusion, it is our feeling that the Department of Justice and the United States Marshal's office failed to accept the responsibility we very strongly feel was due to the Bank of Millard.

I hope the copies of correspondence and my general comments will be helpful at the hearings to be held July 7, 1982.

Sincerely,

John M. Burns

BANK OF MILLARD

S JOHN BEDNAR

OMAHA, NEBRASKA 68137

PHONE 402-895-3444

September 21, 1979

Mr. John R. Timmermier
Schmid, Ford, Mooney & Frederick
1800 First National Center
16th & Dodge
Omaha, NE 68102

Dear John:

On or around the 1st of February, 1979 I was contacted by a Mr. Jack E. Douglas of the U.S. Marshal Service. He explained to me that his job was to oversee certain clients under the U.S. Marshal's Witness Protection Plan. These individuals for one reason or another have to be hidden from the public by the Marshal Service and we have several in the Omaha area. They are given new identities, new backgrounds and jobs are found for them.

The reason Mr. Douglas explained this to me was that he had two individuals in Millard who had just moved into town and were in need of a car. Having just arrived in the Omaha area they had not yet secured a job and they were being paid on a U.S. Marshal Service grant. The two individuals now named Richard & Donna Conti were in need of an automobile and had $500.00 for a downpayment. Mr. Douglas requested that we consider a loan to them so that they could have transportation. My problem as

you can see was that their background was unavailable to me. The Marshal Service cannot give a credit report to anyone but they do have to tell the potential lenders if there is any bad credit in their background. Mr. Douglas stated to me that the Contis had no record of any bad credit. The Contis and Mr. Douglas had located a 1973 Oldsmobile Cutlass and felt that this was a car that could be afforded by them at their present income level. They were to put $500.00 down and we were to finance $1,500.00. The $1,500.00 was the approximate loan value on the 1973 Oldsmobile Cutlass.

The loan was made for $1,500.00 with terms of the loan being 24 payments of $71.41 commencing on the 5th of March. The first payment was made promptly on February 28th and I again was approached by the Contis on the 14th of March. By this time Mr. Conti had secured a very good job with Control Data as an electrician which was his background and Mrs. Conti also had a job but I do not remember the firm's name.

The 1973 Oldsmobile turned out to be a real lemon and they decided to get rid of it rather than putting more money into it at this time. I agreed to lend them $4,525.06 for 36 months on a super nice 1977 Pontiac Grand Prix. The loan value at the time was $4,550.00. This bought the 1977 Grand Prix and included the trade-in on the Oldsmobile.

On or around the 13th of April the Contis again came in to update our records as to their new move. They had moved from a house in Millard Highlands at 6617 S. 140th Avenue to a new house at 4974 S. 157th Circle. Mrs. Conti had secured a new job, this time with Family Food Services and they needed an additional car for her transportation. They had found a 1971 Volkswagon in very good condition and they needed a $1,050.00. This note we wrote for 18 months with the first payment due May 13, 1979.

Payments on the 1977 Pontiac loan were made on the 13th of April and on the 10th of May and on the Volkswagon loan one payment was made on the 18th of May. This is the last that we have heard from the Contis. Around the first part of July I noticed that both loan payments were delinquent and called Mr. Douglas. He told me that Mrs. Conti had taken off for parts unknown and Mr. Conti subsequent to this had had a severe heart attack. As of this date, the situation is as follows: we have charged off to our Reserve for Bad Debts, $4,504.04 on the Pontiac loan and $1,052.81 on the Volkswagon loan. We have a notice of cancellation from their insurance company and we do not have either title in our possession. We do know that the vehicles have been titled by the Contis. The Volkswagon is titled to Richard Conti and I have the serial number, title number and license plate number if we need it. The Pontiac is titled to Donna M. Manero and I also have the information on that car.

Approximately one week ago, I talked to Mr. Douglas about our situation and told him that I was in serious trouble. I asked him for help in locating the Contis and I wrote two letters to Donna Conti asking her to return the vehicles. Mr. Douglas asked what our normal procedure would be in this situation and I told him that we always had a background to skip trace any individual that gave us an application. This of course, was not given to us at the inception of the loans. The only way that the Marshal Service will uncover a background according to Mr. Douglas is on a criminal charge. We normally do not proceed against an individual criminally in matters of this type. He also stated that they had resigned from the Protection Program and the Marshal Service had no control over their actions.

John, on our behalf could you attempt to locate the Contis through the Marshal Service or see what can be done to bring the vehicles back to the State of Nebraska. Any documentation that you may need to prove the above will be gladly provided by me. Thank you.

Yours truly,

S. John Bednar
Vice President

January 2, 1980

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

United States Marshal Service
Attention MOW (Legal Document Section)
One Tysons Corner Center
McClain, Virginia 22102

Re: Bank of Millard, a Nebraska
Banking Corporation vs.
Richard Conti and Donna Conti
Docket 768 No. 263

Gentlemen:

This office represents the Bank of Millard located in Omaha, Nebraska. As such they have turned over to us for handling the delinquent account of Richard and Donna Conti, husband and wife.

On approximately February 1, 1979, our client was contacted by Mr. Jack Douglas of the United States Marshal Service. He explained to the bank that Mr. and Mrs. Conti were under the United States Marshal's Witness Protection Plan. As such they were in need of a loan in order for them to purchase an automobile so that they could have transportation to and from their places of employment. Subsequently a loan was made to the Contis.

Since that time the loans have become delinquent and we have filed a lawsuit against the Contis. It was understood at the time of filing this lawsuit that service would be made by the United States Marshal's office upon the Contis. As such we have secured the summons as issued by the Clerk of the District Court in and for Douglas County, Nebraska, with the understanding that the United States Marshal Service will serve the summons on the defendants.

I have enclosed the original and two copies of the summons and three copies of the petition now on file with the District Court. Jack Douglas of the United States Marshal's office in Omaha, Nebraska has informed us that we should forward these documents to you and you will arrange to have them served on the defendants. In addition, I would request that you also serve the letter directed to the Contis enclosed herewith.

Sincerely,

John M. Burns

February 15, 1980

Mr. Philip M. Tucker
Assistant Chief
Witness Security
United States Marshals Service
One Tysons Corner Center
McLean, Virginia 22102

Re: Bank of Millard vs. Richard
and Donna Conti
Our File No. 97-21

Dear Mr. Tucker:

Early in February I received the affidavit concerning service of summons and petition on the defendants in the above-referenced case. Since the affidavit stated that summons was not served upon the defendants until January 22nd, I appeared before Judge Keith Howard and requested that he enter an order extending the answer day so the defendants have ample time to respond to the petition if they wish to do so. A copy of that order is attached to this letter.

It is, of course, critical that the defendants receive notice of this extension of time, and I am requesting that you forward the attached order to the defendants. This can be done by United States mail and it is not necessary, for our purposes, that it be personally served upon them. However, I am going to ask that you provide me with an affidavit showing that your office did mail the attached order to the defendants. I will file that affidavit with the Court. Pursuant to the order, answer day in this lawsuit has been set for March 3, 1980. If the defendants fail to answer or appear on or before that date, I will file a motion for a default judgment and I will set that motion for hearing sometime in late March. Again, it is my plan to forward all copies of these pleadings to your office for mailing to the defendants and request affidavits that you did so each time. If you will forward these pleadings by mail directly upon receiving them, the defendants will receive ample time to respond to each one as they see fit.

Finally, it is our hope that your office will cooperate with us in gaining possession of the automobiles once we have a judgment against the defendants and execution issues against those particular automobiles.

Sincerely,

John M. Burns

April 30, 1980

Mr. James E. O'Toole
Assistant Chief
Witness Security
United States Marshals Service
One Tysons Corner Center
McLean, Virginia 22102

Re: Bank of Millard vs.
Richard and Donna Conti
Docket 768, Number 263
Our File No. 97-21

Dear Mr. O'Toole:

I am enclosing a copy of the judgment that was entered against Richard and Donna Conti on April 28, 1980. The amount of the judgment totals $5,965.70 plus costs, costs being in the neighborhood of $55.00 to $60.00.

Obviously, our client would like to collect on this judgment and as I have stated before, would seriously consider the return of the automobiles as full satisfaction on the judgment. However, it is also obvious that we will need the cooperation of your office in order to have the judgment paid or possession of the automobiles returned to the Bank of Millard.

It was through the office of the United States Marshal here in Omaha that the Contis were introduced to the bank, and we feel very strongly that the marshal's office should cooperate to the fullest extent possible in getting the judgment paid. If cooperation is not forthcoming, it will be necessary for this office to seek help elsewhere to collect the debt or receive an explanation as to why these defendants are not legally bound to pay debts they incurred.

I will expect a response from your office within ten days or we will have to consider going outside the United States Marshal's office in order to determine the collectibility of this judgment.

Sincerely,

John M. Burns

GOVERNMENT WITNESS

(JACK NAPOLI)

June 29, 1982

Honorable Thad Cochran
U.S. Senator
321 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Cochran:

I was recently contacted by Mr. Mark Ahrens of the General Accounting Office regarding my personal experience with a member of the U.S. Government's Witness Security Program. He informed me of the pending hearings on the Program and its side effects on unsuspecting private citizens.

At Mr. Ahrens' suggestion, I am submitting the attached statement which you may enter into the record. If additional background is desired, I have a lengthy personal file in this matter, most of which is duplicated in Senator Alan Cranston's Washington office.

Very truly yours,

William R. Picton

William R. Picton
1480 Pine Tree Drive
Alamo, California 94507

STATEMENT OF WILLIAM R. PICTON

Mr. Chairman and members of this Subcommittee, I am a private citizen with a personal experience in dealing with a member of the U.S. Government's Witness Security Program. In the following paragraphs, I have outlined my experience chronologically as it happened.

I first met Jack Grillo and his family shortly after they moved into our neighborhood in Walnut Creek, California in early summer 1976. We gradually became acquainted and over several weeks developed a fairly close relationship as friends.

Jack was initially very general in answering my questions of his past, but eventually "admitted" that, as a U.S. Marshal, he had been an undercover man in organized crime and was a protected witness for the Government in a crucial case on the East Coast. Everything he said and did seemed to logically fit with the circumstances as he described them. In fact, he seemed to know a great deal of my background before we discussed it. He claimed that the Government had given him information on all his new immediate neighbors.

In mid July 1976, Jack approached me with his plans to start a business with his brother who had also moved into the Walnut Creek area. He said he was retiring from the U.S. Marshals Service and needed to raise some short term cash. All his personal funds were supposedly tied up in bank accounts in the East awaiting Government clearance for transfer. The bank required a co-signer for a loan

even though a U.S. Marshal by the name of Ron Dobroski supposedly called and verbally verified employment. Against my wife's wishes and, in retrospect, contrary to common sense, I agreed to co-sign a $3,000 loan. I suppose I did so out of a sense of misplaced patriotism.

Suddenly, on August 17, 1976, the Grillo family disappeared. I received a telephone call from Jack telling me that his new identify had been compromised and that the Government had been forced to move him again. He attempted to reassure me that he would make good on the loan, and even gave me the telephone number of a U.S. Marshal named Jim Colasanto through whom I could contact Jack.

The bank loan quickly went into default and I was eventually forced to pay it off. I tried repeatedly through Jim Colasanto to have Jack make good on his obligation, but Jim said the Government could do nothing for me.

Over several years, I pursued a number of different approaches to resolve my situation in approximately the following order:

- The Walnut Creek Police informed me that a warrant for Jack Grillo's arrest appeared likely.

- I discovered that Jack Grillo's true name is probably Napoli based on several telephone calls that I had traced. According to the FBI, Jack Napoli has a lengthy record related to organized crime.

- On October 11, 1976 I wrote a letter to the then Attorney General Edward Levi in which I requested Government restitution or assistance in forcing Jack Grillo to reimburse me.

- In mid January 1977, I received the first meaningful response to my October letter in which Mr. F. E. Vandegrift of the U.S. Marshals Service claimed to have communicated with Jack Grillo and indicated that he should contact the bank and make arrangements to pay off the loan.

- Although Jack Grillo did make one payment, he again defaulted and I had to pay off the loan. In a letter dated May 25, 1977, Mr. Kenneth Holecko informed me that the Marshals Service "is unable to take any further action in support of your effort . . ."

- In a letter dated September 28, 1977, Mr. Edward P. Davis, Jr., Assistant U.S. Attorney, informed me that the U.S. Government would not prosecute Mr. Grillo.

Since early 1978, I have written several letters to Senator Alan Cranston requesting his assistance with no significant results. One response to Senator Cranston from Mr. William E. Hall dated July 20, 1978 did indicate that Jack Grillo may have been removed from the Witness Security Program. In that letter, Mr. Hall also stated that the U.S. Marshals Service would "serve as a conduit for the service of legal process . . ."

Throughout all my efforts, my primary purpose was to point out what I perceived to be a basic flaw in the administration of the Witness Security Program. I firmly believe that the U.S. Government ought to admit to some financial liability for the actions of protected witnesses or abolish the Program. I recognize the argument that witnesses would tend to abuse the system even more if the Government was financially liable; however, the Government has the ultimate leverage of expulsion. In the final analysis, only the Government has any chance of making protected witnesses live up to any contracts they make. To allow these witnesses to continue their protected status after defaulting on financial obligations is a crime in itself.

As you might expect, I consider hearings into this aspect of the Witness Security Program long overdue. Please accept my personal thanks for taking the time to address a problem which, I have reason to believe, has adversely affected many people, some far worse than I.

GOVERNMENT WITNESS

("MIKE")

MEMORANDUM

June 28, 1982

TO: The File

FROM: Gregory A. Baldwin
Assistant Counsel to the Minority

RE: Relocated Witness - "Mike"

On June 25, 1982, at 10:10 a.m., I was called by a relocated witness who would identify himself only as "Mike". He said that he had been relocated to the state of Mississippi, where he is currently living, but had been told by a U. S. Marshal, whom he would not identify, that if he gave his name or phone number to anyone at all he would be removed from the security aspects of the Witness Security Program.

Mike said that in the early 1970's he became involved with a gang of about 10 persons in [redacted]. This gang was involved in criminal activities of many types, especially the sale of firearms, arson and robbery. In one arson, three firemen were killed when the arsonists' detonator exploded late. Mike was mostly involved in arson. In 1974, Mike was suspected (correctly) by the gang of being a police informant in a $100,000 robbery of a coin dealer. An attempt to kill Mike resulted in Mike's killing his assailant. Mike ultimately pled guilty to manslaughter in [redacted] state court in 1975 and was sentenced to 5 years imprisonment. He spent all 5 years in solitary confinement for his protection.

In December, 1980, Mike was interviewed once by U. S. Marshals concerning his entry into the Witness Security Program on his release. He heard nothing more from them until March, 1981, when he was released. At that time, the Marshals picked him up, had him sign a memorandum of understanding, admitted him into the Program and, on the same day, moved him to Milwaukee, Wisconsin. The move to Milwaukee was only temporary, lasting three weeks. There he was met by a Marshal, given money, put into a hotel at government expense, and then left entirely on his own. He was given no documentation or orientation on the program at all. He next saw the Marshal when the Marshal came to put him on a plane for final relocation to Mississippi. Between December, 1980, and March, 1981, no arrangements or preparations had been made by the Marshals for Mike's entry into the Program.

In Mississippi, Mike received a new social security card, a local driver's license (with the wrong number on it), and a passport (in lieu of a birth certificate). He received no form of resume regarding his education or job background, and no assistance in finding a job. He said the Marshal told him he (the Marshal) didn't have time to help him find a job. Mike said he looked for jobs on his own, but without any background references to give potential employers, he could not find employment.

When Mike bought car insurance, he realized that most of the information he put on the application was false. He said he asked the Marshal what would happen if he were in an accident, seriously injured someone, and the insurance company refused to cover him because of his false application. The Marshal told him that if anyone tried to sue him, then the government would just move Mike out of Mississippi to avoid the suit.

Mike said that, to his knowledge, the local police were not advised by the Marshals of his criminal past nor were they even told that a relocated witness was living in their town. He said he understood why the local police should have been so informed.

In early June, Mike was terminated from the Program (i.e., he receives no more monthly financial help). He is now unemployed and has no source of income. He has had no help in finding a job.

He said he could easily see how a person removed from jail and put directly into the Program, given no supervision, no adequate documentation and no job assistance could "go crazy like Pruitt" or return to a life of crime in his new area.

GAB/kd

Copies to:
June Walton
Henry Rumpler
Office of Sen. Cochran

U.S. GOVERNMENT'S WITNESS PROGRAM
(ARTICLES BY GARY DELSOHN)

THE DENVER POST
THE VOICE OF THE ROCKY MOUNTAIN EMPIRE
DENVER COLORADO 80201

June 23, 1982

Jean Walton
Sen. Thad Cochran's Office
321 Russell Senate Office Building
Washington, D.C. 20510

Dear Ms. Walton;

John Perkins of your office asked that I send the enclosed articles to you in reference to the senator's July 6 hearing in Jackson.

I plan on attending, so let me know if there's anything I can help you with.

Thank you;
Gary Delsohn
Gary Delsohn
The Denver Post

The Denver Post Sunday, Dec. 6, 1981

Was the U.S. Government's Witness Program to Blame?

By GARY DELSOHN
Denver Post Staff Writer
Copyright 1981, The Denver Post Corp.

Michelle Lynn, homemaker, 25
Richard Crake, lawyer, 54
Peggy Lowe, mother, 43
Bobbie Robertson, clerk, 30
James Balderson, student, 23
Anthony Taitt, student, 21
Leslie Nellis, musician, 22
Charles Murphy, musician, 20
Steven Bovan, drug suspect, 36
William Zambito, drug dealer, 30
Debbie TerHorst, ex-student, 17
Brian Casey, factory worker, 27

All murdered.

All might be alive today if they hadn't crossed paths with criminals protected by the federal government.

The federal program created to protect cooperative Mafia witnesses has created a storm of controversy with the disclosure that many witnesses have been involved in serious crimes, including at least 12 murders in the past five years.

Once dubbed Operation Whisper, the Justice Department's top-secret witness security program — which gives criminals money and new identities in exchange for help in solving crimes — is operating under increasing criticism as more abuses of the program surface.

A Denver Post investigation of the $150 million program has found that:

✔ At least 12 persons have been murdered since 1976 in cases where protected witnesses have been implicated.

✔ Most protected witnesses, 97 percent of whom are convicted felons, get virtually no supervision once their identities are changed and they're moved to new locations. The government does almost nothing to make sure the former cons don't return to crime.

✔ The budget for the program has increased from less than $3 million to more than $24 million a year since it started in 1970. Many witnesses now in the program aren't the kind of persons the program was designed to protect.

✔ Local authorities not only aren't told when witnesses are moved to their towns, but local investigations of witnesses suspected of crimes often are hindered by uncooperative federal officials.

In some cases, witnesses' true identities were withheld from local police, and witnesses suspected of crimes were freed and later charged with other serious offenses, including murder.

✔ The Justice Department, according to prosecutors and others familiar with the program, often protects witnesses whose lives may not be endangered and whose testimony or help in criminal cases doesn't merit the program's cloak-and-dagger secrecy.

"Fifty percent of the people I put in the program didn't need a name change at all," Greg Baldwin, a former prosecutor of organized crime in Rochester, N.Y., who now is a Senate investigator, told The Post.

"All they needed was to quietly be moved out of town because there's not that many groups who have the money or inclination to try to find somebody. It costs a lot of money to put a contract on one of these guys." But he said prosecutors don't have time to make such reasoned decisions in the heat of an investigation.

Sen. Sam Nunn, D-Ga., predicted a new round of congressional hearings on the program to focus on what he called The Post's "alarming" findings.

The most recent murder he might examine occurred the night of Nov. 6 outside a VFW dance hall in Muskogee, Okla. According to police, protected witness Marcus Love, 31, was arguing with Brian Casey, a 27-year-old factory worker, when Love pulled a pistol from his wife's purse and shot Casey four times. Love was charged with second-degree murder and is in the Tulsa County Jail, held without bond.

"Nobody ever contacted me to say who this guy was," an angry John Russell, Wagoner County (Okla.) district attorney, told The Post. "I found out my own way and it took me quite awhile."

Love was the second witness recently moved to Muskogee charged with a serious crime, which prompted Russell to say the town might be a witness "dumping ground." Warren Stevens, a witness who lived there for some time before moving to Mississippi, was charged last month with robbing a Natchez, Miss., bank.

Congress and President Richard Nixon created the program in 1970 to battle Mafia figures and organized crime leaders who often murdered government witnesses. But the expensive protection — witnesses are paid $900 a month, sometimes for years — also is given to witnesses and family members in cases of drug trafficking, prison murders and other crimes that aren't related to the Mafia.

Midlevel officials who administer the program say it's highly successful and that they're unaware of plans to change its operation. But Rudolph W. Giuliani, associate attorney general in charge of the Justice Department's criminal division, which administers the program, is about to order its overhaul, he recently told The

'You're taking into the program a group of people who are criminals testifying against other criminals, people with behavior problems.'

Rudolph W. Giuliani
Associate U.S. attorney general

Post.

Although he called the program "the country's No. 1 tool against organized crime," Giuliani said charges that it's been misused by prosecutors who protect witnesses unnecessarily is "valid criticism . . . not a frivolous concern."

"I used it legitimately," said Giuliani, who was assistant U.S. attorney in New York City from 1970 to 1975, "but I stretched it a little, too. It was there. It was available."

He said he's considering "a strict quota system" that would allow each of the country's 95 U.S. attorneys, who make most of the program referrals, to protect witnesses in "just one or two really major cases" a year.

Although the federal government occasionally protected key witnesses in the 1960s, the practice began to grow in 1970 with passage of the Organized Crime Control Act. Since then, about 3,800 witnesses and 9,500 members of witnesses' families have been protected.

Bill Dempsey, public information officer for the marshal's service, attributed the program's rapid growth to its success.

"The program really caught on, and we started getting a lot of people coming forward in the mid-70s," said Dempsey.

Giuliani and others, however, say it caught on too quickly.

"It's a program that by definition has inherent problems. You're taking into the program a group of people who are criminals testifying against other criminals, people with behavior problems," Giuliani said.

Howard Safir, assistant director for operations of the U.S. marshal's service, which provides witnesses their new locations, phony IDs and other background documentation, and protects them until they're settled, told The Post that even with the obvious behavior problems there is no screening or psychological testing to determine whether witnesses have violent tendencies or have been rehabilitated before they're given new names and homes.

He said his office has spent five months searching for a psychological testing firm to provide that service.

But for now, about the only control used to keep witnesses from returning to crime is their signatures on a "memo of understanding" that admonishes them against committing crimes and says they'll be cut from the program if they do.

"They're just dumped out there," said Lee Yates, an assistant district attorney in Seattle whose life allegedly was threatened recently by a protected witness whose son Yates prosecuted for murder.

Witnesses' only contact with marshals usually comes when they get their monthly subsistence checks.

One example of this lethal snafu, which those familiar with the pro-

The Victims

Oct. 16, 1981: **James R. Balderson**, top photo, 23, of Fort Collins, and **Anthony Taitt**, 21, a Colorado State University sophomore from Lakewood, were shot to death in 7-Eleven store robberies in **Loveland** and **Fort Collins** within two hours of each other. Both were clerks on the night shift, working to pay their way through college. Marion Albert Pruett has been charged with murdering them.

Jan. 10, 1981: **Debbie Terhorst**, 17, of 5713 Jellison St. in **Arvada**, a high school dropout struggling to find her identity, left home and was found slain on Lookout Mountain, her throat slashed.

March 3, 1981: Marion Albert Pruett walked into the sheriff's office in **Sandoval County, N.M.**, and tearfully reported that his wife, **Michelle Lynn**, 25, had left home after a marital spat and was missing. Pruett was charged with murdering her after her body was found in the desert near Albuquerque 33 days later.

Nov. 6, 1981: **Brian Casey**, 27, was shot four times outside of a **Muskogee, Okla.**, VFW dance hall, and protected witness Marcus Lowe, 31, also of Muskogee, was charged with second-degree murder.

Sept. 17, 1981: **Peggy Lowe**, 43, a mother of two and a loan officer at a **Jackson, Miss.**, savings and loan, disappeared after being taken hostage in a robbery. Pruett later led authorities to her body, which had been dumped in a wooded area in Alabama.

May 12, 1981: **Richard Crake**, 54, a wealthy corporate lawyer in **La Jolla, Calif.**, was found shot and beaten to death in the anteroom of his exclusive mountain home. His wife, who also was beaten in the attack, recovered.

March 23, 1978: **William Zemaitis**, 30, a drug dealer who was supposed to be in protective custody after helping the government crack a Miami drug ring, was found stabbed in his **Atlanta** prison cell.

Oct. 12, 1981: **Bobbie Robertson**, 30, a convenience store clerk in **Fort Smith, Ark.**, was killed during a robbery. Pruett later claimed he shot her.

April 21, 1976: Aspiring musicians and close friends **Leslie Michael Nellis**, 22, and **Charles Murphy**, 20, were found shot to death "gangland style" at the Treetops Apartments in **New Albany, Ind.** The two Louisville, Ky., natives had worked as waiters.

Oct. 22, 1977: Suspected bigtime cocaine smuggler **Steven Boven**, 36, was shot nine times as he left a fashionable **Newport Beach, Calif.**, restaurant. Two relocated witnesses and the son of a relocated witness were convicted of murder.

gram say is common, was uncovered Sept. 16 in St. Louis when a federal judge ordered the government to pay $69,000 to a St. Charles, Mo., widow whose policeman husband was slain in 1976 by a relocated witness during a burglary.

U.S. District Judge William L. Hungate ruled in a lawsuit filed by the widow, Leona Bergmann, a 47-year-old factory worker, that the government did nothing to ensure that the witness — who had a 20-year criminal record, including charges of rape and sodomy — wouldn't return to crime.

In fact, Hungate concluded, "the lack of supervision . . . was a substantial factor in bringing about the (death of the) plaintiff's husband."

The witness, Benjamin Rosado, who helped prosecute the killer of a New York dope dealer turned informant, had been given a new identification under the name Benjamin Russo, a rented car and apartment, but there were no efforts to get him a job or keep an eye on him, the judge said.

"Although the government had special facts within its knowledge concerning Rosado's criminal propensities," Hungate ruled, "the government relocated Rosado from New York City to St. Charles, Mo., with a new identity, but without taking measures to prevent Rosado from engaging in the criminal activities which resulted in the murder of (the) plaintiff's husband."

Federal officials recently appealed the case and have refused to discuss it.

St. Charles Police Lt. Paul D. Orf said that when he ran a fingerprint check on Rosado he received a computer printout that said Rosado was an employee of the Justice Department.

"A few days later, a marshal came by and said he (Rosado) was a protected witness and wanted to know what we wanted him for," Orf said. Largely due to difficulty in getting accurate information about Rosado's past from the federal government, the lieutenant contended, it took a year for St. Charles police to compile a case against Rosado.

Rosado's whereabouts now are a mystery. Within days after being sent to the Missouri State Penitentiary on the murder conviction in 1978, marshals whisked him to New York to testify in a trial there. He eventually was sent to an Arizona prison under the name Tony Marino, but he escaped in July 1980, after petitioning for a new trial in the Bergmann case because the transcript of a pretrial hearing in which his wife testified against him had disappeared.

He was apprehended in New York last February, but his appeal was dismissed on Sept. 30, 1980, by a Missouri appeals court, which first agreed to consider his case, because Rosado was a fugitive and didn't show up for court. He's apparently in prison now somewhere.

In Colorado, there have been at least three murders since January in which protected witnesses have been implicated, including the slayings of two 7-Eleven clerks Oct. 16. Protected witness Marion Albert Pruett has confessed to those crimes in interviews with news reporters.

Another protected witness was acquitted recently in the murder of a teen-age girl in suburban Denver, although he admitted being involved in circumstances leading to the girl's beating. But, said Joseph Mackey, chief deputy district attorney in Jefferson County, where the case was prosecuted, "We don't know how many (protected witnesses) we might have had because the Feds never tell us anything. We can prosecute a guy without knowing he's a protected witness."

Mike Little, chief deputy district attorney in Denver, had the same complaint. Cases in each man's office left local prosecutors with a bad impression of the witness program.

In the Jefferson County case, Antonio Laroza was acquitted Nov. 11 in the January slaying of a 17-year-old girl on Lookout Mountain.

"We're talking about obstruction of justice by the federal government," Bill Carpenter, the Jefferson County prosecutor who worked the Laroza trial, said after Laroza was acquitted.

Contending that federal officials hid records of Laroza's criminal past, Carpenter said he had no choice but to charge Laroza with first-degree murder, a charge he never felt confident of winning.

Had Carpenter been able to produce records of Laroza's three prior felony convictions, Laroza would have been charged instead with being an accessory after the fact, Carpenter said.

That's an easier charge to prove, and Laroza's fourth felony conviction could have required a sentence of at least 25 to 50 years as a habitual criminal. Instead, in Carpenter's view, Laroza is free because program officials didn't cooperate.

That's especially disturbing to local authorities, because immediately after his arrest, Laroza admitted driving the car he and two others used in connection with the murder. He also admitted, police said, that he helped dispose of the victim's bloody belongings.

Those confessions probably would have led to a conviction for an accessory charge, Carpenter said. But the prosecutor said he was reluctant to file that charge, which on conviction might have brought Laroza no more than a year in prison.

Laroza was given protection in 1979 because he allegedly witnessed a murder in a federal penitentiary where he was serving a sentence for interstate transportation of stolen money orders.

Denver's Little said his office had a similar experience, which nearly led to the shooting death of a Denver policeman.

According to Little, a protected

'An agent ... tells them (local officers) all there is to know about the guy. As far as I know, it always happens.'

Gerry Shur
He has the last word about who goes into the program.

witness showed up in Denver in late 1976 and soon was involved in four felonies. The first was a burglary, but the district attorney's office agreed to probation after he was convicted because, according to routine checks, he appeared to have a clean record.

Two more convictions still kept him out of jail, Little recalled, because checks each time showed he had a clean record before coming to Denver.

"But it just didn't make sense to me," the prosecutor said. "How could a guy go 34 years and have no record and then all the sudden get involved in four very serious felonies in less than two years"

Finally, "after he nearly blew away a Denver cop in a shootout in a burglary, we found out through some other contacts that the guy had four earlier felony convictions in the New Orleans area."

Little said that, after getting a tip, an investigator from his office took the witness' mugshot to New Orleans, showed it around and only then learned his background.

"Had we known on the very first burglary what his real background was, you can bet we never would have settled for the disposition we did. And the judge certainly wouldn't have allowed it."

Little said he didn't want to identify the policeman who was fired at with a rifle from close range but not wounded, or the protected witness, who was wounded severely in the shoulder, for fear of blowing his still-continuing cover.

"I don't particularly like this guy," Little said, "but he's in Canon City (site of the Colorado State Penitentiary), and, as a public official, I have an obligation to see that he's not killed for being a snitch if I can."

Little also said it appears that more people are being placed in the program than belong there.

"It's too easy for district attorneys, U.S. attorneys, to pull people in before a grand jury and offer immunity or protection to a guy just to make a case," he said.

Gerry Shur, the 20-year Justice Department official who is the final authority on who gets into the program, insisted in a recent interview that the FBI or federal marshals routinely alert local police and prosecutors to a witness' real background and cooperate fully once they're suspected of a crime.

"An (FBI) agent or deputy U.S. marshal tells them all there is to know about the guy," Shur said. "As far as I know, it always happens. I would be distressed to find out that it doesn't happen."

To prove his point, Shur lifted from his desk a confidential file on Laroza, which he refused to show a Post reporter.

Running his finger along the lines of one of the pages, Shur said, "Here, 'So and so is advised of Antonio Laroza's true identity.' " He cited several similar passages, each time substituting "so and so" for the names of the Colorado officials he said had been "fully informed."

Asked to identify the officials, because Shur's documentation would support his contention that "it's absolutely routine to cooperate" with local authorities, Shur said: "If they want to name-call, that's fine. I won't. I'll have to take the heat."

But local officials aren't always cooperated with, according to numerous sources and examples. As one former prosecutor — who called the program highly valuable but said it's in serious disarray — put it: "The Justice Department is long on theory on how things are supposed to be run, but short on answers why it's always screwing up."

Consider the example cited by Randy Hubbard, police chief in New Albany, Ind., a quiet town of 38,000 across the Ohio River from Louisville, Ky. He said he'd have two fewer murder victims on his hands if it weren't for the witnessprotection program.

Federal officials, he said in a recent interview, hid from his investigators the identity of convict Frank Bellman, who was suspected of a 1976 New Albany burglary but never arrested because routine checks showed he had a clean record.

A few weeks after the burglary, Hubbard said, Bellman, who was really former bigtime drug dealer Frank Bova, allegedly murdered Leslie Michael Nellis, 22, and Charles Murphy, 20, who were two close friends and aspiring musicians from Louisville working as waiters at an apartment complex that also employed Bellman as security chief. Hubbard said Nellis and Murphy had committed the burglary at Bellman's urging.

"They admitted the burglary and were about to implicate Bellman about the time they were found executed gangland style," Hubbard said. "They were shot several times in the head — pointblank. Had we known who this guy was and what his background was, we surely would have held him on the burglary investigation and wrapped that up a lot quicker.

"I'd say we'd probably not have had two dead boys on our hands."

After months of "banging our heads against a wall," Hubbard said, a friendly local FBI agent, who "didn't go through proper channels," finally told him about Bellman's identity.

By the time he had enough evidence to charge Bellman with the murders, though, he disappeared, Hubbard said. Two years later, Hubbard heard that Bellman had surfaced in Broward County, Fla.: He was on trial for murdering a dope dealer before he entered the witness program.

Bellman was convicted of that crime and finally charged in 1978 with the two Indiana killings. Federal officials won't comment on the case.

Last April, Jerry Ferrara, sheriff of Sandoval County, N.M., thought he had his man after arresting Charles "Sonny" Pearson in connection with the brutal killing of Pearson's 23-year-old wife, Michelle.

A check with the FBI and NCIC — the National Crime Information Center, a computer network that gives police instant information on felons — showed Pearson was clean.

Pearson, who really was Marion Albert Pruett, convicted bank robber, protected witness and escapee, bragged to Ferrara that he didn't have to answer the sheriff's questions, Ferrara said, because he was protected by the federal government. After three days, a judge ordered him released for lack of evidence.

Ferarra said that when he checked with federal marshals about Pearson's claim, he was told "Pearson" was a protected witness, but not that he had a criminal record.

"He could have been a civilian witness for all I knew, which I didn't believe," Ferarra said. "I think if we knew what he'd been into, that he could skip town — Pruett also had an escape conviction on his record — we would have been allowed to hold him longer."

Several months later, after Ferrara found a witness to the murder who implicated Pearson, and when federal officials finally revealed his background and real name, he had disappeared.

A short time later, he was charged with the two Colorado convenience-store killings, his wife's murder and slayings in Arkansas and Mississippi.

The latest development in Pruett's case: He told reporters he actually killed a prison cellmate in 1978 — a murder that Pruett previously testified he witnessed. For that testimony, he was provided federal protection, relocation to New Mexico and about one year of $800 monthly payoffs.

Although Allen Benton was convicted of conspiracy to commit murder based on Pruett's testimony, federal prosecutors have said they have no reason to doubt the

veracity of Pruett's statements during the trial and don't plan to reopen the case.

Sheriff Ferrara, although he said he understands the government's need to occasionally protect witnesses, can't reconcile the fact New Mexico authorities weren't notified when Pruett was moved there, or that his investigation into Pruett's background was thwarted.

"This is crazy," Ferrara said of the program. "It has to stop. He was living amongst us with a whole bunch of raps against him. It's really amazing how the U.S. marshals have the gall to do this kind of thing."

Shur said local authorities can't be notified each time a protected witness is relocated to their communities.

"Citizens have a right to live somewhere without having to check in with the police department," he said.

Citing a witness recidivism rate he said is 15 percent — compared with 50 percent for prison inmates — Shur added: "Remember, 85 percent of these people are out there not committing crimes. If we ordered surveillance on these people, I imagine you'd be writing stories about that."

Shur, a 48-year-old lawyer from Corpus Christi, Texas, who's been involved in protecting witnesses in one capacity or another since he came to Washington with the Kennedy administration 20 years ago, isn't the usual bureaucrat who shies away from controversy.

He's often confrontational in interviews, as he was in a recent two-hour session with a Post reporter who traveled to Washington to see him.

His direction of the program, along with the U.S. marshal's service, already has been been attacked in two rounds of congressional hearings, a critically acclaimed book by CBS television newsman Fred Graham and dozens of press reports in which numerous program foulups have been cited.

Until now, however, the barrage has dealt almost exclusively with witness complaints that their security has been breached by inept marshals and other officials.

The criticism now being generated by witnesses who commit murder is new.

Yet Shur's decisions are final in the daily operation of the witness protection program.

Signs abound, however, in addition to Giuliani's plans for an imminent overhaul, that the program and Shur's administration might be collapsing under the weight of witnesses gone bad.

In addition to Nunn's intention to push for new congressional hearings, his subcommittee will issue a report highly critical of the program's management in a few weeks.

If new hearings are held, there will be a batch of crimes to look at. In fact, although Shur said that only 15 percent of the program's participants return to crime, one of his top assistants was, in an offhand quip, more telling: Cattle rustling, she said, is about the only crime in which protected witnesses haven't been involved.

There is also rising criticism that witnesses are too free to ring up bad debts under their new names, knowing that all they have to do to get moved and be given still another name is complain to marshals that someone from their old crowd spotted them.

Said Senate investigator Baldwin: "That's the biggest problem, the debts. I've got one guy who I relocated who's in more danger from his creditors than he'd ever be from the Mafia.

"He's rung up debts in four cities, and all he's done to get moved is go into the marshal's office and scream, 'They've seen me. I got to get out of here.' And the marshals never tell the creditors where to find them."

Marshal's service spokesmen said witnesses who claim they've been discovered are moved quickly, but only temporarily, while their contentions are investigated.

Here are some recent crimes in which protected witnesses have been implicated:

✓ Herman G. Martin, 60, a former insurance executive and protected witness, was ordered to stand trial last month for the May murder of Richard B. Crake, a La Jolla, Calif., lawyer who was beaten to death in the lobby of his expensive mountain home. A Martin associate allegedly committed the murder at Martin's behest. Martin, free on $1 million bail, pleaded innocent to the murder.

The program was rocked additionally when James Harris Murphy Jr., a deputy marshal in San Diego, testified at Martin's preliminary hearing that Murphy gave Crake's address to Martin after Murphy used official department sources to obtain it from Pacific Telephone Co. Murphy testified that Martin said he needed Crake's address to serve him some legal papers. Shur wouldn't discuss the case.

✓ Vincent "Big Vinnie" Teresa, one of the program's earliest and most celebrated witnesses, was charged in Seattle Aug. 26 with conspiracy to import cocaine from Bolivia and federal mail fraud.

Authorities got wind of the alleged plot after Teresa's phone was tapped when he allegedly threatened to kill two King County, Wash., prosecutors who successfully prosecuted his son for murder.

"It was no joke," said Lee Yates, one of the prosecutors. "We had armed guards at our house with rifles for two weeks. At one point, when we got word that the plot was imminent, we were sent up to Canada for a while to disappear."

Yates said the death plot allegations couldn't be corroborated, so charges weren't filed.

Teresa, who weighs about 300 pounds and was known in Seattle as Charles Cantino, reportedly gave federal authorities information in the early 1970s that led to dozens of indictments against organized crime figures.

✓ Two relocated witnesses, Jerry Fiori and Raymond Jesco, and Anthony Marone Jr., son of a relocated witness, were convicted two years ago in the 1977 slaying of a suspected California cocaine smuggler.

The accumulation of protected witnesses in Southern California led former California Rep. Mark Hannaford to ask the Justice Department for a moratorium — which it granted — on placing witnesses in that state.

Because witnesses had been allowed to choose where they were relocated, large numbers were going to California and Florida, Hannaford said, and apparently reuniting with underworld cronies.

Police in the 1977 California case said the protected witnesses who killed the suspected cocaine smuggler had formed their own "Mafia-style" gang involved in drugs, extortion and murder.

The moratorium was lifted a year later, and witnesses no longer choose where they're to be moved.

Founder Describes Witness Operation As Out of Control

By GARY DELSOHN
Denver Post Staff Writer

PROVIDENCE, R.I. — "I feel like I created a monster," said John Partington, the U.S. marshal most instrumental in building the controversial federal witness protection program.

The Rhode Island Irishman personally has guarded, relocated and falsified IDs for about 2,600 witnesses, far more than any other marshal.

He's been a roving troubleshooter, living months at a time with Mafia stool pigeons who cooperated with the government. He's answered frantic middle-of-the-night calls from witnesses who feared their covers were blown and — in Partington's parlance — that "they'd get whacked." He often whisked them to new secret locations on a moment's notice.

Now, near retirement after 20 years in the U.S. Marshals Service, shaken by recent murders committed by government witnesses, Partington, 52, fears the government has gone too far.

"The program is out of hand," he said during a recent interview at a Providence hotel. "There's so much demand on the Marshals Service, we can't keep up with it. Maybe it's time to get out the microscope and take a look at this thing."

Partington's voice cracked with emotion when he was told that Marion Albert Pruett, a witness protected for his help in a prison murder case, had been charged with killing two Colorado convenience store clerks Oct. 16.

"All those years I had a fear that something like that would happen," he said. "I helped create the monster. It's part of my life.

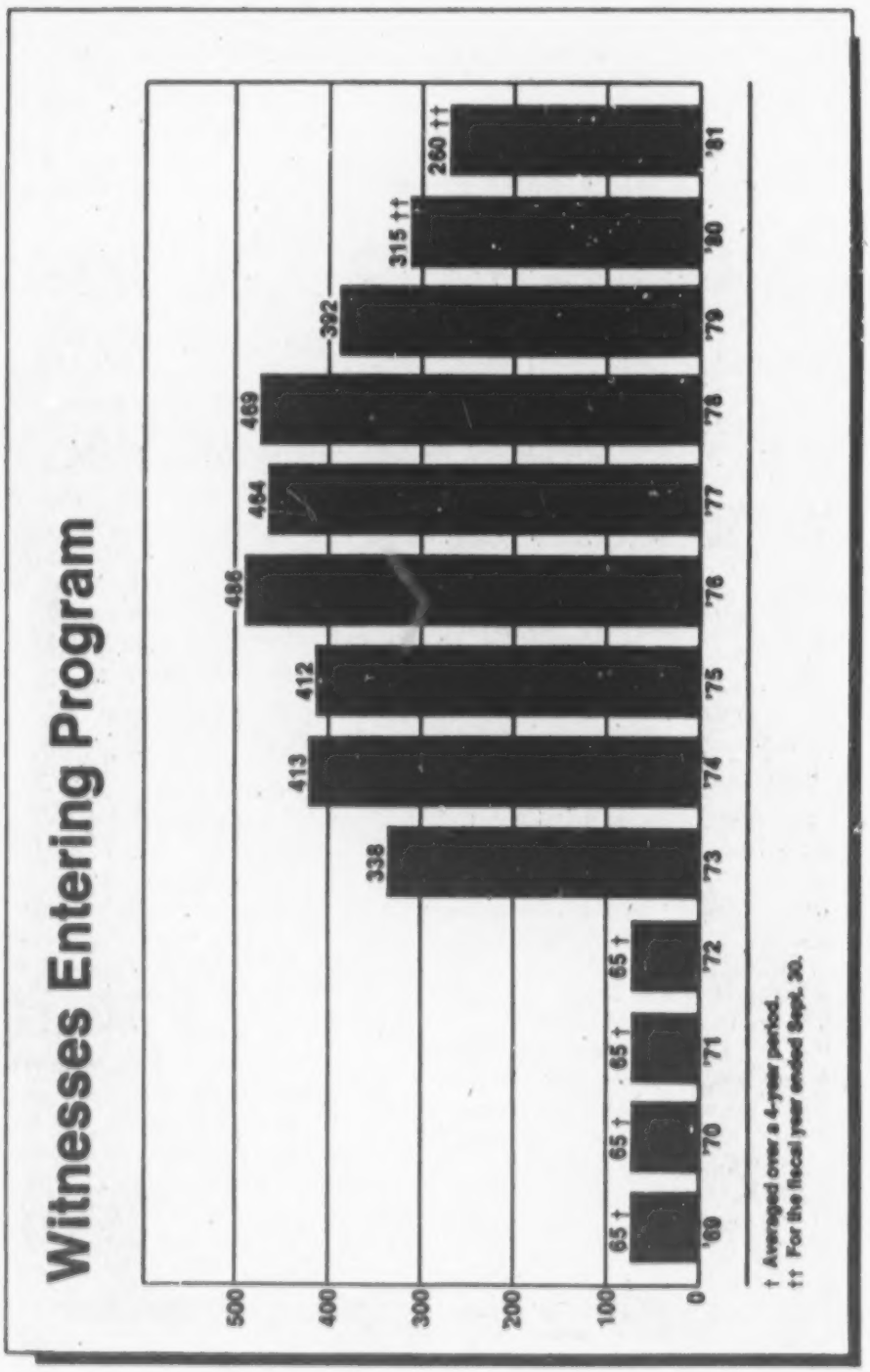
"But I'll tell you, all the Mafiosa, all the narcotics dealers, all the thugs we put into jail with this program — I'd give them all up for the life of those kids in Colorado."

Partington is not shaken easily. He's been through a lot.

He was roommate, bodyguard, ersatz psychologist and father confessor to one of the meanest and earliest protected witnesses, Joe Barboza, whose testimony led to the conviction of several New England Cosa Nostra warlords in the late 1960s, before there even was a formal program.

Soon after being relocated to San Fransisco under the name Joe Baron, Barboza, who had bragged of committing several dozen Mafia "hits," was convicted of murder. He served about two years in prison and was gunned down himself in the street shortly after his release, in apparent retaliation for his testimony.

Other notable and often harrowing Partington assignments included guarding "Big Vinnie" Teresa, another early Mafia insider who turned on his partners, Watergate figures E. Howard Hunt, Charles Colson and John Dean, the murderers of the Joseph Yablonsky family, who be-


Witnesses Entering Program
500
400
300
200
100
0
65 †
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338
413
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488
464
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† Averaged over a 4-year period.
†† For the fiscal year ended Sept. 30.

came witnesses against United Mine Workers President Tony Boyle, and retired New York detective Bob Leuci, subject of the current hit movie, "Prince of the City."

"You'd like to have all Billy Grahams in this program," Partington said, "then we wouldn't have these problems — but it doesn't work that way. These are not average people on the street getting into this program."

Partington isn't allowed to talk to reporters without clearance from his Washington superiors, and they routinely reject interview requests. In fact, he said, he lost his exciting troubleshooter job in 1978 after criticizing the program in testimony to a Senate committee examining its problems.

Since then, Partington has been at his marshal's desk in Rhode Island and will be replaced soon by a Reagan administration appointee.

But, Partington, in agreeing to talk to The Post, insisted in his thick, New England accent, "We have nothing to hide in this program but witnesses. That's why I'm talking to you. What Pruett and these others have done is awful.

"There needs to be more control, more supervision, but I don't want to sound like I'm not giving the new administration a chance, because I know they'll change it."

One possible change Partington supports would require federal officials to notify local authorities when witnesses with criminal backgrounds — 97 percent of the program's 3,700 witnesses are convicted felons — are moved to their towns. Program officials say doing that would be unfair to witnesses, since many don't return to crime, and that it could lead to police harassment and security breeches.

"I used to do it even though it was against the rules," Partington said. "If I had a guy in town, I went right to the locals and it never caused any problems. You have to remember, the town police are paid to protect the people in the community. They have a right to know when one of these guys is brought in."

One reason some witnesses return to crime, according to Partington and other program critics, is that the government is not thorough enough in documenting a witness' background.

"How can you turn a guy loose in Denver, let's say, with a new name and a driver's license? He's from nowhere. He just dropped in. He can barely get a menial job. What's he supposed to do?"

There should also be psychological testing of witnesses, Partington said, to determine whether they're dangerous. The marshal's service said it's searching for a testing service now.

"I'm not saying it would work in all cases," Partington said, "but when a guy like Pruett goes out and kills five people, that guy's not normal. Maybe we could catch that."

Pruett admitted in interviews with reporters that he killed the Colorado store clerks and said he also committed murders in Arkansas, Mississippi and Atlanta. He also has been charged with killing his wife, but has denied committing that crime.

"We must have this program," Partington said. "No question. It's given us our only effective tool against organized crime. But it's being used now for all kinds of cases — drugs, you name it. It's all happened too fast, and it's time to slow the engine down."

Blunders Often Mar Operation

Among Those Protected: 23 Suicides, 14 Murders

By GARY DELSOHN
Denver Post Staff Writer

Likened to a "body without a brain" by one Senate investigator, the federal witness-protection program seems to have committed almost as many blunders in its 11 years as it has witnesses in the program.

Almost-comical security breaches have been noted in two separate congressional hearings, dozens of news reports, a full-length book and throughout the underworld grapevine.

Some examples:

✓ One of the program's 3,800 protected witnesses, during the heat of last year's Democratic presidential primary, was booked on a plane as T. Kennedy. Frenzied airport security guards made a scene, and the witness was a bag of nerves.

✓ One witness was moved to prison with a new name: John Philip Sousa, an obvious phony.

✓ Relocated family members, young and old, regularly were given sequential Social Security numbers.

✓ Personal belongings were moved to witnesses' new homes in boxes marked clearly with their old names.

If the Mafia really was after some of these people, they wouldn't have been hard to find.

Other program foulups weren't so funny.

Several dozen protected witnesses, fearful for their lives after testifying against organized crime figures, told U.S. Senate committees in 1978 and 1980 of promise after promise made and broken by the federal government.

Howard Safir, assistant director for operations of the U.S. Marshals Service, acknowledged in a recent interview that 23 protected witnesses have committed suicide, apparently in despair over difficulties encountered in their new, secret lives.

That's a rate of one suicide among each 165 protected witnesses. The U.S. suicide rate among the general population in 1978, the last year records are available, is one per 8,000 persons.

In the most infamous suicide, Frank Calimano, one of the program's few non-criminals, hanged himself to death last year after a long period of depression over how, in the words of his son who testified before Congress in December, "the government betrayed him."

Calimano, who was despondent because he couldn't establish credit or start a new business under his alias, and who felt federal officials weren't helping him, voluntarily had infiltrated organized crime circles and fed information to the government. His motive: revenge on mobsters he believed responsible for his brother's heroin addiction.

When his wife, Vivian, testified in Congress last year, she said the Mafia could better protect someone than can the federal government.

"You can rely better on them," she said.

Fourteen witnesses who were in the program at one time or another have been murdered, Safir said. But he is quick to add that no one who "followed the rules" has been killed and that none has anyone been murdered because of a marshal's security breach.

That might be attributed to luck as much as anything else.

One witness who was protected for his help in an organized crime case, according to a former federal prosecutor's 1980 testimony to the Senate Permanent Subcommittee on Investigations, was moved to a large city in the Northeast by a marshal who unwittingly booked the two of them into a hotel "generally known by law enforcement there to be controlled by the mob."

The marshal later "engaged the services of a lady of the evening," took her up to his room and told her who he was protecting and why.

"Fortunately," the former prosecutor testified, "this woman turned out to a an informant for a federal law enforcement agency, but the agents and the prosecutors in that area who were involved in the case only could shudder to think what could have happened had she not been an informant."

In another highly publicized problem area, children have been taken from their natural parents in hasty witness relocations, causing bitter, frustrating custody fights — that is, if the relocated witnesses and children are found. Often they are not.

One such case, in which a father spent eight years searching for his three kids after the federal government hid and changed their identities and the identity of their mother and her convicted felon boyfriend, a protected witness, led to the movie "Hide in Plain Sight," starring James Caan.

In short, although the program has been used with success in scores of organized crime cases, it also has been, in the words of Greg Baldwin, a Senate investigator who is a former federal prosecutor of organized crime figures in Rochester, N.Y., "one disaster after another." When he testified before the Senate investigations subcommittee last year, Baldwin said the program "operated like a body without a brain."

But, while Safir and other federal officials connected with the program acknowledge that much of the past criticism was warranted, they maintained in recent interviews that the program now is run far more effectively and professionally.

"Those are old problems that for the most part have been resolved," said Gerry Shur, the Justice Department official who is the program's top day-to-day administrator. "The program has really been cleaned up the last two or three years."

Shur must not have talked to Larry Dill, lieutenant in the Pulaski County Sheriff's Department in Little Rock, Ark.

Dill had an experience with the program, in which a witness was

murdered after several alleged security breaches by marshals, that led him to say of the program: "It's about the tackiest thing I'd ever seen."

According to Dill, when Sheila Ann Bishop was found shot to death in July 1980, it didn't take Dill very long to figure out she was a protected witness. But learning why, or her real name, was another matter.

On Ms. Bishop's rental agreement with the apartment complex she lived in, and on her telephone and heat bills, Dill said, were notations that the bills were paid by the U.S. Marshals Service and that she was a protected witness.

Marshals have declined comment on the case, other than to say Ms. Bishop, who really was former Maryland narcotics informant Sheila Ward, violated the program's rules by going back to crime.

Dill said program officials delayed three weeks before telling Arkansas authorities her true background.

"I can call any police agency in the country and get on pretty well with them," Dill said. "We all cooperate, but these people flat out lied to me, and it made our investigation a lot harder."

Three of Ms. Bishop's associates in crime were convicted in her murder, Dill said. A fourth is awaiting trial.

'I can understand the program," Dill said. "But if they used as much secrecy on the public while protecting these witnesses as they do with police, she probably wouldn't have been killed in the first place." ■

Findings 'Alarming;' New Inquiry Likely

WASHINGTON — Sen. Sam Nunn, D-Ga., predicts a new round of congressional hearings into the operation of the federal witness protection program, calling findings of a Denver Post investigation of the program "alarming."

Nunn, who was chairman of the Senate Permanent Subcommittee on Investigations that held hearings on the witness protection program for three days last December, now is its ranking minority member.

Nunn was interviewed last week about violence, including several murders, committed by criminals who were under the protection of the federal program.

"We had not heard of this kind of problem when we held our hearings" last year, the second-term senator said. "But this sounds alarming. There is a distinct possibility we'll have follow-up hearings."

One day after the Nunn interview, Greg Baldwin, a subcommittee investigator, told The Post Nunn is "committed" to holding new hearings.

Widow Sued to Kill Program

'He Would Still Be Alive If...' Court Awards Her $69,000

By GARY DELSOHN
Denver Post Staff Writer

Leona Bergmann, a widow in St. Charles, Mo., can use the $69,000 she won from the federal government in court recently, but the real reason she sued the government was to shackle its top-secret witness protection program.

The way she figures it — and U.S. District Judge William L. Hungate agreed in his potentially landmark ruling in her suit, in St. Louis Sept. 16 — her husband wouldn't have been murdered in 1976 if the government weren't in the business of protecting criminals who testify against other criminals.

Or at least if it did a better job of it.

Instead of celebrating her 10th wedding anniversary Oct. 22, 1976, that was the day Mrs. Bergmann buried her 47-year-old husband, Fred.

Mrs. Bergmann's tranquil rural existence was shattered when a protected witness mortally wounded her husband, an auxiliary St. Charles policeman, when he interrupted an office burglary at the local gas company. He died several weeks later. The witness also shot at another policeman who escaped injury.

The witness, Benjamin Rosado, had a long criminal record, but after giving federal prosecutors information about the murder of a New York dope dealer, he turned informant and was moved by the government to St. Louis under the name Benny Russo. It was under his new identity that he killed Bergmann and was convicted of the murder in June of 1978.

According to Judge Hungate's order, Bergmann was killed primarily because the government did nothing to make sure Rosado didn't drift back to crime, even though, based on his record, it should have figured that's what he would do.

According to sources familiar with the program, Hungate's order, if it isn't reversed on appeal, could cripple or, at least, drastically alter, the witness protection program. The judge declined to be interviewed by The Denver Post recently.

Program officials won't discuss the suit or its potential ramifications, saying the case is being appealed.

If the government were held liable for crimes committed by witnesses, it might be forced to rethink what types of witnesses get into the program and the amount of supervision and control exerted

over them once they're in.

"The thing that's alarming," added Mike Newport, Mrs. Bergmann's attorney, "is that these people can move in right next door to you and nobody knows anything about it, and they can be dangerous as hell.

"And then, once these people are in the program, they do nothing with them. They don't monitor them, they don't watch them, they don't talk to them, they don't get them jobs. They just hide them and give them protected status."

Mrs. Bergmann's judgment was only $69,000 because her husband's annual salary as an auxiliary policeman was just $5,000. About $39,000 of the judgment went to cover what Mrs. Bergmann spent on her husband's medical and funeral expenses. The rest was about a third of his projected income had he lived a full life.

Mrs. Bergmann, a 46-year-old factory worker, said she had broad intentions when she filed her suit. "It wasn't for the money," she said. "I'd really like to see this program stopped. It's plain crazy to put a guy like Rosado on the street, and I know if it wasn't for the program, my husband would still be alive."

Rosado, according to Hungate's ruling, was given a rented car and an apartment, as well as credit with local utilities, and then was left to his own devices. There was no attempt to find him a job, as the program requires, and he had only infrequent contact with federal marshals responsible for his protection.

Witness Protection Plan Outgrows Its Funds

Cost Reaches $24 Million a Year

By GARY DELSOHN
Denver Post Staff Writer

It started on a shoestring, when Joe Valachi, the most famous Mafia "songbird," spilled his guts to Bobby Kennedy's Justice Department.

Before the late attorney general helped convince Valachi to tell all at a televised Senate rackets subcommittee hearing in 1963, federal authorities weren't even sure there was a Mafia.

When Valachi finished talking, they knew the inner workings of the "Cosa Nostra," including the names and misdeeds of its godfathers and lieutenants in major American cities.

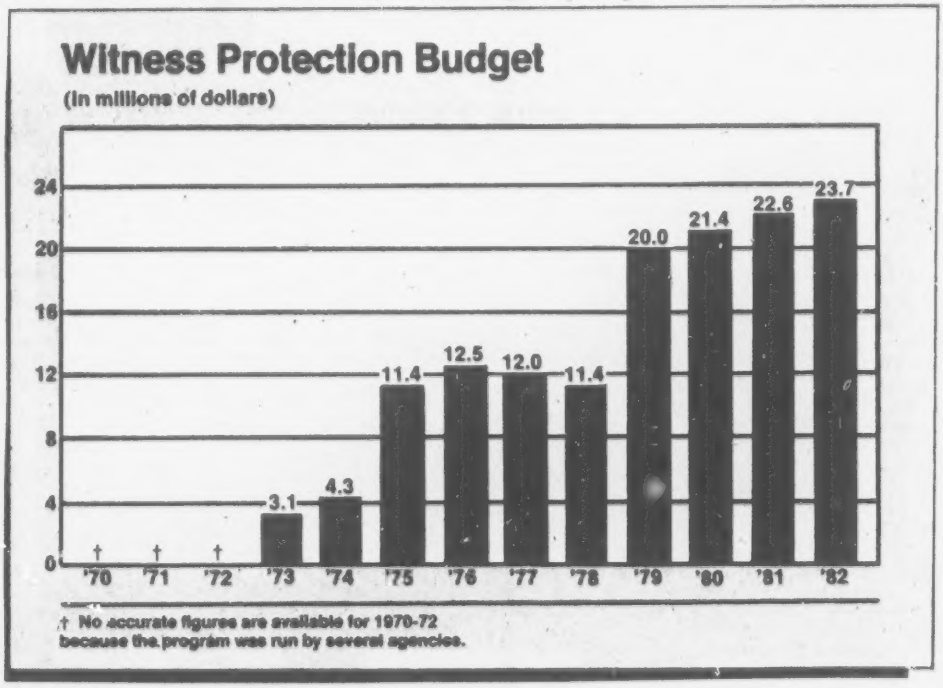
Calling Valachi's testimony "the biggest intelligence breakthrough yet in combating organized crime and racketeering in the United States," Kennedy believed the federal government got a bargain, even though it spent hundreds of thousands of dollars protecting Valachi around the clock until he died of a heart attack in a Texas prison in 1971.

But when he pushed for a formal and cheaper means of protecting people willing to help the government battle organized crime, Kennedy could not have foreseen the explosive growth of what was to become the federal government's witness protection program. It now spends $24 million annually to hide witnesses in drug, murder and white-collar crime cases, which critics say often bear no resemblance to organized crime cases.

"A lot of these cases where witnesses are protected resemble organized crime only because somebody oraganized them," a former federal prosecutor told The Denver Post. "The program has gotten away from its original intent."

Officials of the program concede that the 1970 Organized Crime Control Act, which formally created the program, is written loosely enough to have gotten away from Kennedy's goal.

In part, the law says, the government can protect and compensate "government witnesses and potential government witnesses



whose lives or persons are placed in jeopardy by virtue of being a witness or intended witness in legal proceedings against any person alleged to have participated in an organized criminal activity."

"It's all a matter of how you define organized criminal activity," said Joe Dolan, the U.S. attorney in Colorado. "It's a judgment call. I know our cases are pretty damn heavy."

With the loose application of the law, critics say, the program has gotten out of hand and needs to be curbed.

Rudolph W. Giuliani, associate attorney general in charge of the Justice Department's criminal division, which adminsters the program, said in a recent interview he is considering implementing a "strict quota system" that might allow each of the country's 95 U.S. attorneys to offer protection to witnesses in "just the one or two really major cases a year."

If he does that, he would be cutting the controversial program in half.

An average of 380 witnesses and 950 family members have been moved to new locations, given new identities and compensated each year since 1970, said Gerry Shur, who, as associate director of the Justice Department's Office of Enforcement Operations, is the official in charge of the program's daily operations.

Shur pointed out that the numbers have been decreasing steadily since 1976, when a high of 486 witnesses and 1,215 members of their families were put into the program.

"We're being more selective," he said in a recent interview.

But one congressional source familiar with the program called Shur "a rubber stamp. He's never rejected anyone," the source said, requesting anonymity. "If he has, it's news to me."

Shur denied that accusation and said he formally rejected 25 referrals the past two years and many more in informal telephone conversations with inquiring prosecutors.

Howard Safir, associate director of operations for the U.S. marshal's service, explained the program's rapid growth in 1980 testimony before the Senate Permanent Subcommittee on Investigations.

It was originally intended that 25 to 50 witnesses would be placed into the program each year and kept in secret "safe houses" staffed by marshals and scattered around the country, Safir said.

That was tried for a few years, but, according to sources in the marshal's office, mobsters quickly and easily learned the locations of the refuges, and that approach was scrapped.

"By-mid 1975," Safir told the committee, "it became apparent that long-term confinement in safe houses was not a practical solution to protect witnesses and their families over an extended period of time."

About the same time, as prosecutors started having success through use of protected witnesses, Safir said, "the number of witnesses coming into the program increased to the rate of over 400 a year.

"Because of this increase and the lack of available resources, the (marshals) service found itself unable to meet many of the demands for social services by witnesses and their families."

According to one program critic, a former prosecutor who himself placed more than a dozen witnesses in the program: "The whole thing was done backwards. If they didn't have the resources, they shouldn't have put that many people in the program."

As the problems in meeting increased demand became apparent, the budget and the marshal's staff burgeoned.

The number of fulltime "witness security specialists" increased from 27 to about 130, according to Safir's Senate testimony. The ratio of marshals to witnesses, said Shur, went from 198-to-1 in 1977, to 22-to-1 in 1981.

The program's budget, which had grown to $3.1 million in fiscal year 1973 and stayed around $12 million through fiscal year 1978, mushroomed to $20 million in fiscal year 1979.

The fiscal 1982 budget is $23.7 million, and a Senate Permanent Sucommittee on Investigations report due out next month will blast the program for ineffective management and protection of witnesses, but will recommend additional staff and money for the program.

The likelihood of Congress and the Reagan adminstration accepting that recommendation, in light of budget cutbacks and recently documented weaknesses in the program, is considered highly unlikely.

If anything, based on Giuliani's plans — which reportedly have White House support — it seems a safe bet that the program will be spending less and protecting fewer witnesses in the future.

Use of Criminals Called 'Effective,' But Has Its Faults

By NORM UDEVITZ
Denver Post Staff Writer

Despite its many inequities, the U.S. Justice Department's controversial witness protection program has been "very effective" in bringing scores of major criminals to justice, one of America's top organized-crime experts believes.

Tom Renner, who for more than 20 years has reported on organized-crime activities for the Long Island, N.Y., newspaper Newsday, puts it this way:

"Scores of major criminals have been convicted because of testimony by some of their fellow criminals. Many of those convictions wouldn't have happened otherwise. And the testimony was forthcoming only because of the protection afforded by the program."

Nevertheless, Renner, who is regarded by news media colleagues and most law-enforcement agencies as one of the nation's two or three "most savvy" observers of organized-crime activities and trends, believes the witness protection program has taken a bad turn.

"It's gone awry," he says, not because protected witnesses have continued their criminal ways, but rather because the government too often doesn't make good on its promises to guard witnesses against retaliation and help them start new and productive lives.

"For one thing," Renner says, "witnesses get new names, but no documented background."

As a result, Renner says, witnesses have no "official history" and can't get jobs, credit or, often, even a driver's license.

Additionally, Renner claims, the government is "intent on getting witnesses off the program as soon as possible."

Some witnesses have verified this claim, noting that they have been "cut loose" from the program just as soon as the government couldn't use them anymore.

One witness who had been relocated to Cheyenne, Wyo., told a Denver Post reporter last year: "I've told them all I know, testified about everything I can, and I guess they are going to dump me. I'm broke. I can't get a job. I haven't seen my wife and kids for six months, and I think the marshals here have told everybody in town who I am."

Several months later, the witness contacted the reporter from an Eastern city where he had returned to his former criminal life because, "Those goddamned prosecutors lied to me. They won't help me. I got to eat, and I can't make it any other way."

Such recidivism is the exception, program officials say, pointing out that about 15 percent of protected witnesses revert to their former criminal ways.

Counteracting this, according to Gerry Shur, who directs the program for the Justice Department, are the program's results. During the latest recorded statistical year, March 1979 through March 1980, testimony by 398 witnesses resulted in 1,323 indictments, 826 convictions, with only 79 acquittals, Shur says.

Renner also notes the recidivism rate, adding that he believes those who do go back to criminal ways are mostly witnesses for whom the program was never designed in the first place.

According to Renner, the program originally was intended as a tool to help the government convict major organized-crime figures, but it since has been expanded to include a lot of "small time hoods" whose testimony isn't significant.

Additionally, Renner says, a lot of people are getting in the program who come from drug prosecutions. Many of them, because they are addicts, aren't reliable, Renner believes.

Used by Marshals And Dumped, Says Man Tried in Death

By DAVID JENKINS
Denver Post Staff Writer

If U.S. marshals in Denver had given him the aid and support promised him as a participant in the federal witness-protection program, he might not have been involved in the slaying of a 17-year-old Colorado girl, Antonio Laroza claims.

After his relocation to Colorado for testimony in an alleged Mafia slaying at a federal prison in Terre Haute, Ind., Antonio Zamarripa — provided the new identity of Antonio Laroza — was left on his own to find a place to live and to work, the three-time felon contends.

Generally, Laroza describes the attitude of the U.S. marshal's office in Denver in dealing with him and his family as one of hostility and neglect. When he and his family arrived in Colorado in February 1980, Laroza charged in a recent interview, the marshals took them to a sleazy, cockroach-infested motel on West Colfax Avenue and virtually abandoned them.

Laroza contends he was dumped in one of the metropolitan Denver area's poorer areas and was given no help in orienting himself and his family or in finding a home or job.

His only instruction from a marshal was "to do everything on his own," he said.

The second witness-protection participant to be implicated in major Colorado murder cases, Laroza recently was acquitted of first-degree murder charges in connection with the savage knife slaying of Debbie TerHorst, of Arvada.

A Golden District Court jury has found Rudy Gallegos guilty of slashing the throat and stabbing Miss TerHorst to death over a small amount of drugs, liquor and money allegedly stolen by the girl. A third suspect, Steven Marquiz, was found competent to stand trail after several months of treatment at the Colorado State Hospital in Pueblo, and he is awaiting a preliminary hearing on a murder charge.

During Laroza's trial, a statement attributed to the defendant indicated he admitted driving the victim and the two other suspects to the murder scene on a lonely trail on Lookout Mountain, west of Golden.

"If the marshals would have directed some of their attention to me and my family and our needs, I don't believe I would have been in any bar" and met the others involved in the slaying.

"I had to make a living for my family. I'm a good pool shooter," Laroza added, explaining that he had to hustle pool in bars because the marshals didn't assist him in finding a job.

"I had to go out and hustle to buy food for my family," the long-haired, flamboyant program participant said.

Wearing a bright printed sports shirt in sharp contrast to the orange jail coveralls he wore for

11 months, Laroza laughed heartily when asked to describe the motel where marshals left him.

"It was worse than the Jefferson County Jail," said Laroza, who has been an outspoken critic of conditions in the overcrowded jail, the object of more than 30 federal lawsuits charging cruel and inhumane conditions.

The motel was infested with cockroaches and drove Laroza to find other accommodations as quickly as possible, he said.

"I just got myself a taxi cab and went out and found myself a house.

But, once his family was in the house, he still had no car and was forced to walk blocks in the snow carrying groceries. This hardship, he said, was made even worse because he had been forced to leave behind two cars and a truck when he was accepted into the program.

Laroza describes himself as a general contractor, working primarily in the East before he was relocated in Colorado under the witness protection program.

He said he is a good mechanic and electrician, but received no aid in finding a job.

However, a source close to the case said Laroza never had had a job, only devoting his time to his hobby of body-building power lifting. The source even suggested Laroza may have fixed weight-lifting contests in cooperation with organized-crime figures.

Confronted with these contradictions, Laroza said the source was probably referring to his time in Colorado under the witness protection program, during which he admits he didn't have a job. He declined comment on the accusation that he fixed weight-lifting contests.

Laroza isn't only unhappy with the treatment he and his family received from the marshal's office, but he also said the program officials practically disowned him.

In his mind, he explained, he was forced to suffer substantial mental anguish because the government chose not to honor the contract both he and the government had signed for his participation in the witness program.

Though he claims he has a story to tell, possibly about witness program improprieties or organized crime activites, Laroza disavows any desire to return to the program.

He suggests that he fears the government more than others and will tell all in a book he still hopes to market. He claims has been offered as much as $10,000 for his story, but asked for as little as $20 for his story from a Denver Post reporter, an offer which was declined.

Bob Stevenson of the U.S. Department of Justice refused to comment after being advised of Laroza's allegations against Denver-area marshals administering the program.

(NOTE: Additional material submitted for the record is retained in the subcommittee files.)

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